

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

Floor Debate
April 30, 2013

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SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-ninth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Wallman. Please rise.

SENATOR WALLMAN: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Wallman. I call to order the sixty-ninth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR CARLSON: Thank you. Are there any corrections for the Journal?

CLERK: I have no corrections.

SENATOR CARLSON: Thank you. Any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB44, LB68, LB242, LB269, and LB423 as correctly engrossed. I also have a communication from the state of Idaho with regards to a House Concurrent Resolution passed there. That will be acknowledged in the Legislative Journal. That's all that I have, Mr. President. (Legislative Journal pages 1171-1173.) [LB44 LB68 LB242 LB269 LB423]

SENATOR CARLSON: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda.

CLERK: LB483A by Senator Bolz. (Read title.) [LB483A]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Bolz, you're recognized to open on your amendment (sic). [LB483A]

SENATOR BOLZ: Thank you, Mr. President, and good morning. This is the trailing A bill for LB483. As you will recall, last week we chose to use General Funds as the funding stream for the family reentry program, and I ask for your green vote. Thank you.
[LB483A LB483]

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SENATOR CARLSON: Thank you, Senator Bolz. Members, you've heard the opening on LB483A. Are there senators wishing to speak? Seeing none, Senator Bolz, you're recognized to close. Senator Bolz waives closing. The question is, shall LB483A be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB483A]

CLERK: 29 ayes, 0 nays on the advancement of LB483A, Mr. President. [LB483A]

SENATOR CARLSON: LB483A does advance. Mr. Clerk, next item. [LB483A]

CLERK: Mr. President, Select File, LB269A. I have no Enrollment and Review. Senator Campbell would move to amend with AM1163. (Legislative Journal page 1153.) [LB269A]

SENATOR CARLSON: Senator Campbell, you're recognized to open on your amendment. [LB269A]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The amendment does two things. We had an emergency clause in the original LB269, but it had not been put into the A bill. And the second is we needed to clarify a date in the A bill. And really those are the only two changes that are in this amendment. Thank you, Mr. President. [LB269A LB269]

SENATOR CARLSON: Thank you, Senator Campbell. You've heard the opening on AM1163. Are there senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close. She waives closing. The question is, shall AM1163 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB269A]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Campbell's amendment. [LB269A]

SENATOR CARLSON: The amendment is adopted. [LB269A]

CLERK: Mr. President, Senator, I have no amendments to the bill. [LB269A]

SENATOR CARLSON: Senator Murante for a motion. [LB269A]

SENATOR MURANTE: Mr. President, I move to advance LB269A to E&R for engrossing. [LB269A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye.

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Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB269A]

CLERK: Mr. President, LB299 is the next bill. I do not have Enrollment and Review. Senator Kolowski would move to amend with AM987. (Legislative Journal page 959.) [LB299]

SENATOR CARLSON: Senator Kolowski, you're recognized to open on your amendment. [LB299]

SENATOR KOLOWSKI: Good morning, Mr. Chairman. Fellow senators, good morning and I ask that you advance LB299 with AM987. AM987 is my bill, LB417, which I introduced in Government, Military and Veterans Affairs Committee. LB417 advanced out of committee unanimously. I then spoke with Senator Seiler and received a green light to amend my bill on to LB299, and I thank him for this permission to do so. AM987 requires the Secretary of State to publish statewide uniform election guidelines for poll workers to better prepare all volunteers for election day. AM987 helps ensure that all counties and poll workers have the same level of high-quality and up-to-date election resources to refer to on election day. This ensures consistency and provides smaller counties that may have less resources and more infrequent elections the same level and quality of resources. I understand that counties such as Lancaster and Douglas, who have excellent guides, may not benefit from this legislation. However, I want to ensure that counties with election administrators who are part time have the same resources as these larger counties with full-time administrators. I would like to recognize and commend the Secretary of State's Office for providing excellent technical assistance to county election commissioners...administrators on their secure Web portal and via their hot line. These services and information could be streamlined into one consistently updated uniform guide for poll workers. The comprehensive poll worker guides in Douglas and Lancaster County, for example, could be used as a framework for the statewide guide. There is no need to reinvent the wheel, but there is a need to provide this resource statewide to counties with fewer resources. Furthermore, having an election guide provided and updated by the state for poll workers happens to be a common practice in many states around us and throughout the United States. Iowa, Minnesota, Kansas, and South Dakota all provide some kind of uniform standards and guidelines for poll workers and election administrators. Nationwide, 24 states have uniform poll worker guidelines and standards issued by the chief election officer. Another 16 states have uniform standards and guidelines issued to election administrators and poll workers in some manner. Eight states, Nebraska included, have not attempted to provide comprehensive standards and guidelines issued to poll workers or election administrators. I understand that many election administrators in Nebraska conduct their elections in different ways from county to county. However, when it comes to polling locations, the Election Act does not provide for much variation on treatment of voters. Therefore, having a uniform and standard guide for poll workers would ensure high-quality resources for all counties, regardless of their size, and ensure

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that voters are being treated lawfully and equitably. Thank you and I again urge you to adopt AM987 to LB299. Thank you. [LB299 LB417]

SENATOR CARLSON: Thank you, Senator Kolowski. There is an amendment to AM987. It's AM1135. Senator Murante, you're recognized to open on AM1135. (Legislative Journal page 1145.) [LB299]

SENATOR MURANTE: Thank you, Mr. President and members. First of all, I am in support of Senator Kolowski's amendment and in support of LB299. I consider my amendment very friendly in nature and don't have any problems with what Senator Kolowski is trying to do. What my amendment basically states is it puts some clarifying language into the statute, which articulates that these guidelines that the Secretary of State are to come up with are instructional in nature and that they don't bind the election commissioners or county clerks to do anything that they otherwise are not bound to do by statute. The reason for this is there are numerous statutes in the Election Act which give some discretion to election commissioners and clerks. Given how disparate our counties are in nature and how differently they have to run elections because of it, there are going to be times when election guidelines vary from county to county. And there are going to be counties that have different election procedures and that's perfectly appropriate. This amendment just articulates that, that the election guidelines are instructional in nature. I urge your support. Thank you, Mr. President. [LB299]

SENATOR CARLSON: Thank you, Senator Murante. Members, you've heard the opening on AM987 and AM1135 to AM987. The floor is now open for debate. Senators wishing to speak include Avery and Janssen. Senator Avery, you're recognized. [LB299]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. Just a little bit of history on the underlying...the first amendment, AM987. We in the Government Committee have from time to time taken up legislation of this kind to provide election guides for election workers. We...I think this goes back to a bill that Senator Karpisek introduced in his first term, and then later it was introduced again by former Senator Bob Giese and now Senator Kolowski. It has previously been on General File at least once. I think that this is a good amendment, and I am not at all opposed to Senator Murante's amendment as well. The committee considered the amendment, AM987, this session and we voted it out of committee 8-0. And believe me, if you get 8 votes out of the Government Committee, you're doing good. So I urge you to support this, and I would do that for the following reasons. Nebraska is one of only eight states that do not administer elections according to any published election standards and guidelines. The...now is that a problem? It could be, and this guide would help avoid that. Iowa, Minnesota, South Dakota, Kansas, Missouri, and soon Colorado all have uniform election standards and guidelines; and it works well for them and we believe it will work well for us. Uniform election standards and guidelines are particularly useful to election commissioners in small counties where they have little resources. This can be of great

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help to them. Uniform standards also ensure that citizens are treated similarly from county to county, and that is important as well. Already Douglas, Lancaster, and Sarpy Counties, along with several other counties in the state, have their own version of an election guide. So I urge your support for AM987 and I also urge you to support Senator Murante's amendment, AM1135. And the underlying bill, LB299, is a good bill as well; and I urge you to support that. Thank you, Mr. President. [LB299]

SENATOR CARLSON: Thank you, Senator Avery. (Doctor of the day introduced.) Senator Janssen, you're recognized. [LB299]

SENATOR JANSSEN: Thank you, Mr. President and members. And just getting here this morning, kind of getting things together and seeing this amendment, it harkened me back to the days of the Government Committee. And I agree with Senator Avery--it is difficult to get anything out of that committee 8-0, having served on it for four previous terms. And I do recall this bill. I was unaware or at least probably didn't remember that it was Senator Karpisek first, because that was probably before my time. But I remember I called it the "Giese guide" when Senator Giese was here, and I used to quip with him that it's the "Giese guide." And I recall it was a year we didn't have much money to spend and it was death by A bill, and it was a very small A bill at the time, and I apologize. Would Senator Kolowski yield to a question? [LB299]

SENATOR CARLSON: Senator Kolowski, would you yield? [LB299]

SENATOR KOLOWSKI: Certainly. Thank you. [LB299]

SENATOR JANSSEN: Thank you, Senator Kolowski, and it's my privilege and honor to ask you a question for the first time on the mike. What was the A bill, and I apologize. I just couldn't find it on my gadget real quick. I didn't know the underlying bill that was behind it on... [LB299]

SENATOR KOLOWSKI: We have no fiscal note on this at all, sir. [LB299]

SENATOR JANSSEN: And it basically just lays out to the election commissioner in a certain county...I'm trying to harken back to the premise of in Dakota County at the time for Senator Giese was that it would help the local election officials know what the present laws are in the state of Nebraska. Is that correct? Or expand on that if you will, please. [LB299]

SENATOR KOLOWSKI: Well, looking back at the history of this, I believe Senator Giese and Senator Mello were both involved in this. And primarily at that time the emphasis was upon and direction to election administrators rather than strictly basically to poll workers. And this is for the poll workers themselves to use the documents that would be provided. And you can put these on-line, very little or no cost at all; take some of the

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examples that we have from the larger counties and make them available to the small counties for use. [LB299]

SENATOR JANSSEN: Okay. I guess...and it's not a huge concern of mine, I'm just kind of curious why it used to...three years ago it had an A bill on it and now it doesn't. I'm curious as to why it wouldn't now. And I guess you wouldn't know why because I would be very happy to get a zero A bill, and I would just take it to the floor and say, great. And it wasn't much at the time. I think it was less than \$10,000 if I recall at the time. So thank you, Senator Kolowski, and I'll yield the balance of my time to the Chair. [LB299]

SENATOR CARLSON: Thank you, Senator Janssen. Senator Karpisek, you're recognized. [LB299]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. As Senator Avery said, I did have this bill at one time. I don't remember the order. It was the "Giese guide." Then I called it the "Karpy Chronicle." And so I just wanted to put that on record before Senator Kolowski tried to steal the chronicle name. He'd have to bring up his own. But I think that this is a very good idea. It will make it easier for people who do need to look at something that comes up during an election. I know many of the larger counties already have these sort of things for themselves and that's wonderful. This isn't meant in any way to go against that and probably even use some of the things that they do for this. But I think for some of the smaller counties that aren't as used to having the numbers or the odd things that may come up in an election this will give them something to look toward for more guidance. And I greatly support it and thank Senator Kolowski for bringing it. Thank you, Mr. President. [LB299]

SENATOR CARLSON: Thank you, Senator Karpisek. There are no other senators wishing to speak. Senator Murante, you're recognized to close on AM1135. [LB299]

SENATOR MURANTE: Thank you, Mr. President. Again, all my amendment does to Senator Kolowski's amendment is articulate his intent that his amendment is instructional in nature. It doesn't bind the election commissioners or clerks to do anything that is not otherwise covered in statute. As Senator Karpisek accurately stated, most of the larger counties in the state already have guides like this. This is really going to be a benefit to the smaller counties in the state which don't have such guides. So I encourage your support. Thank you, Mr. President. [LB299]

SENATOR CARLSON: Thank you, Senator Murante. Members, the question is, shall AM1135 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB299]

CLERK: 30 ayes, 0 nays on adoption of the amendment to the amendment. [LB299]

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SENATOR CARLSON: The amendment is adopted. We return to discussion of AM987 and the underlying bill, LB299. Are there senators wishing to speak? Seeing none, Senator Kolowski, you're recognized to close on AM987. [LB299]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I would like to thank again Senator Avery and Senator Karpisek for their comments this morning and Senator Murante for his amended portion of this bill. I appreciate their support, and I hope you'll all vote green on this. Thank you very much. [LB299]

SENATOR CARLSON: Thank you, Senator Kolowski. Members, you've heard the closing on AM987. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB299]

CLERK: 34 ayes, 0 nays on the adoption of Senator Kolowski's amendment. [LB299]

SENATOR CARLSON: AM987 is adopted. [LB299]

CLERK: I have nothing further on the bill, Mr. President. [LB299]

SENATOR CARLSON: Senator Murante for a motion. [LB299]

SENATOR MURANTE: Mr. President, I move to advance LB299 to E&R for engrossing. [LB299]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk, next item. [LB299]

CLERK: Mr. President, LB23 is a bill by Senator Hadley. Senator Murante, I have Enrollment and Review amendments first of all. (ER61, Legislative Journal page 1062.) [LB23]

SENATOR CARLSON: Senator Murante for a motion. [LB23]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB23]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion is adopted. [LB23]

CLERK: Mr. President, Senator Hadley, I have AM1095 with a note you wish to withdraw. AM1129 with a similar note to withdraw. Senator Hadley would move to amend, Mr. President, with AM1181. (Legislative Journal page 1159.) [LB23]

SENATOR CARLSON: Senator Hadley, you're recognized to open on AM1181. [LB23]

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SENATOR HADLEY: Mr. President, members of the body, as you remember, these are amendments to LB23. And just to quickly refresh your memory, LB23 does two things. The first, it allows the ICF/DDs to recapture a provider tax that is sent to Washington. We send \$1 there, we get \$1.60 back; important to help them fund. The second thing is with Senator Coash's amendment to it we get rid of that terrible term MR and it is now called developmentally disabled. The amendment does two things. Under the current bill, the balance would all go to the General Fund above \$600,000 that would go to the ICF/DDs. And this balance would go to the General Fund. As amended, we were putting...we will put a million dollars back to the General Fund, and the outcome of this is to lower the fiscal note down to about \$400,000 to \$500,000. The reason we do this, and for those new senators, the way our fiscal note system, we put the money into the General Fund and we could use the money for other purposes than giving it back to Mosaic. So what this does is says that there's technically a loss to the General Fund because we're going to give it back to Mosaic. So just to refresh your memory, the order of distribution: \$55,000 will go to the department for administration of the fund; second, payment through the intermediate care facilities for the mentally retarded for the cost of the tax; third, \$312,000 to providers of community services for persons with developmentally disabled. The amendment adds \$1 million to the General Fund. And then fourth, will rebase rates under the medical assistance program. The second part of the amendment, we just want to make sure that the Department of Health and Human Services follows through. So it is merely a reporting measure that says on December 1, no later than December 1 the Department of Health and Human Services will report to our Health Committee and the Revenue Committee the amount collected and the amount of each disbursement from the fund. With that, I would appreciate your green vote on AM1181 to LB23. [LB23]

SENATOR CARLSON: Thank you, Senator Hadley. You've heard the opening on AM1181. Are there senators wishing to speak? Seeing none, Senator Hadley, you're recognized to close. He waives closing. The question is, shall AM1181 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB23]

CLERK: 33 ayes, 0 nays, Mr. President on the adoption of Senator Hadley's amendment. [LB23]

SENATOR CARLSON: AM1181 is adopted. [LB23]

CLERK: I have nothing further on the bill, Mr. President. [LB23]

SENATOR CARLSON: Senator Murante for a motion. [LB23]

SENATOR MURANTE: Mr. President, I move to advance LB23 to E&R for engrossing.

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[LB23]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill advances. Mr. Clerk, next item. [LB23]

CLERK: Mr. President, LB3. Senator, I do have Enrollment and Review amendments pending. (ER63, Legislative Journal page 1062.) [LB3]

SENATOR CARLSON: Senator Murante for a motion. [LB3]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB3]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed nay. Amendments are adopted. [LB3]

CLERK: Senator Lathrop would move to amend with AM1067. (Legislative Journal page 1069.) [LB3]

SENATOR CARLSON: Senator Lathrop, you're recognized to open on your amendment. [LB3]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. AM1067 is actually LB289 that was heard earlier this year by the Judiciary Committee. Nebraska law has long recognized equitable liens to protect parties who improve or better the value of real or personal property. These are called mechanic's or construction liens. In 1981, the construction lien laws were substantially rewritten into the Nebraska Construction Lien Act. It provides for an equitable lien against real estate for goods and services unpaid which were tendered under a real estate improvement contract, which is a defined term under the act. Basically, real estate improvement contract is any activity which improves the value of the property. However, one activity that improves the value of the property was left off the list and that is commercial real estate brokerage services. The purpose of this amendment is to add commercial real estate agency contracts to the definition of real estate improvement contracts. It joins other professional services like architecture and engineering and other activities like construction of a building: demolition, repair, remodeling, or removal of a structure previously constructed or installed. It's abundantly clear that the commercial real estate licensee creates value for the owner of the property when they find tenants or buyers. A tenant in a property is the income for that property, and the income stream of the tenancy creates the value of the building. Real estate licensees need to be able to protect their services creating value just as the lumbermen or the concrete supplier. The amendment provides that the lien for the payment of commercial brokerage services only runs for two years from the time a payment was due under the brokerage service contract giving rise to the lien. The amendment does not change the fact that a lien

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must be filed within 120 days of performing the last services for which the claimant wants to be paid under the contract. It does not change the way liens attach to the real estate, nor the process that lenders may use to assure themselves that the liens would be subordinate to the financing. And with that I would encourage your support of AM1067. Thank you. [LB3 LB289]

SENATOR CARLSON: Thank you, Senator Lathrop. And the Clerk indicated you have another amendment to AM1067. You're recognized to open on AM1128. (Legislative Journal page 1145.) [LB3]

SENATOR LATHROP: I will, and thank you, Mr. President. Colleagues, this is a very simple amendment to ensure that tenants cannot create a lien on the property that they do not own. AM1128 cleans up AM1067 to provide that tenants cannot do anything that creates a lien for these kinds of services, or anything else for that matter, on real estate. And that just makes sense that if you're the owner of the property, your tenant should not be able to create a lien on your real estate. And with that I would encourage your support of AM1128, as well as AM1067. Thank you. [LB3]

SENATOR CARLSON: Thank you, Senator Lathrop. You've heard the opening on the two amendments. The floor is now open for debate. Senator Schumacher, you're recognized. [LB3]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Would Senator Lathrop yield to a couple of questions? [LB3]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB3]

SENATOR LATHROP: Yes, I will...try. [LB3]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. With regard to AM1067, under your amendment there is some concern that brokers might file a notice of lien immediately following the creation of a commission agreement. Under Section 9(2)(a) of the amendment, it indicates that the broker's lien attaches when the broker is entitled to the commission. Is it your intent that a purchase agreement or lease agreement be signed by a potential buyer or lessee prior to the filing of the notice of the lien? [LB3]

SENATOR LATHROP: Yes. [LB3]

SENATOR SCHUMACHER: And the second question, Senator Lathrop, the amendment authorizes the creation of an escrow account from the proceeds of a sale, but also provides for a series of liens that have priority over the broker's lien. Would it be safe to assume that the sale proceeds that may be placed in escrow only represent those that are left after the liens with priority have been satisfied? [LB3]

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SENATOR LATHROP: Yes, that's very true. [LB3]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. [LB3]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Lathrop. Are there other senators wishing to speak? Seeing none, Senator Lathrop, you're recognized to close on AM1128. He waives closing. The question is, shall AM1128 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB3]

CLERK: 32 ayes, 0 nays on adoption of the amendment to the amendment. [LB3]

SENATOR CARLSON: The amendment is adopted. We return to discussion of AM1067. Seeing no senators wishing to speak, Senator Lathrop, you're recognized to close. [LB3]

SENATOR LATHROP: Just briefly, colleagues, this bill adds commercial real estate brokers to the list of people that can file what is, generally, referred to as a construction lien. I appreciate your support of the last amendment. Two more green lights and we'll move LB3 to Final Reading. Thank you. [LB3]

SENATOR CARLSON: Thank you, Senator Lathrop. The question is, shall AM1067 be adopted? All those in favor vote yea, all opposed vote nay. Record, Mr. Clerk. [LB3]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB3]

SENATOR CARLSON: The amendment is adopted. [LB3]

CLERK: I have nothing further on the bill. [LB3]

SENATOR CARLSON: Senator Murante for a motion. [LB3]

SENATOR MURANTE: Mr. President, I move to advance LB3 to E&R for engrossing. [LB3]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Your light came on after I recognized Senator Murante. [LB3]

SENATOR CHAMBERS: (Inaudible.) [LB3]

SENATOR CARLSON: Okay. Senator Chambers, you're recognized. [LB3]

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SENATOR CHAMBERS: Thank you. Mr. President, I don't know much about geography; don't know much trigonometry; don't know nothing about a science book; know even less about the French I took. But one thing I know about is the rules. When the motion is made, then comes the debate. Senator Lathrop, I would like to ask a question, too, if I may. [LB3]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB3]

SENATOR LATHROP: Yes, I will. [LB3]

SENATOR CHAMBERS: Senator Lathrop, are you in a fairly expansive mood this morning despite what I just said? [LB3]

SENATOR LATHROP: Yes. [LB3]

SENATOR CHAMBERS: Are you willing to let a little bill that I have hitch a ride to this bill? [LB3]

SENATOR LATHROP: No. [LB3]

SENATOR CHAMBERS: Thank you. (Laughter.) [LB3]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Lathrop. Members, you've heard the motion to advance LB3. All in favor say aye. Opposed nay. The bill does advance. Mr. Clerk, next item. [LB3]

CLERK: Mr. President, Senator, I have E&R amendments to LB99. (ER64, Legislative Journal page 1062.) [LB99]

SENATOR CARLSON: Senator Murante for a motion. [LB99]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB99]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments advance. [LB99]

CLERK: Mr. President, Senator Mello would move to amend with AM1075. (Legislative Journal page 1107.) [LB99]

SENATOR CARLSON: Senator Mello, you're recognized to open on AM1075. [LB99]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM1075

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was brought to my office by Bill Drafting. It makes several technical changes to the bill which fall outside the normal E&R process. In addition to striking obsolete language, the amendment moves the language that was adopted in Senator Schumacher's FA60 into a new subsection within Section 20-504. I'd urge the body to adopt AM1075. Thank you. [LB99]

SENATOR CARLSON: Thank you, Senator Mello. You've heard the opening on AM1075. The floor is now open for discussion, for debate. Seeing no senators wishing to speak, Senator Mello waives closing. The question is, shall AM1075 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB99]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB99]

SENATOR CARLSON: AM1075 is adopted. Mr. Clerk. [LB99]

CLERK: Senator Pirsch would move to amend with AM1179. (Legislative Journal pages 1174-1175.) [LB99]

SENATOR CARLSON: Senator Pirsch, you're recognized to open on AM1179. [LB99]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. AM1179 represents that which was introduced to this body by me earlier this year as LB233. It was brought at the recommendation of the Nebraska Crime Commission. It passed out of the Judiciary Committee with no opponent testimony or neutral testimony. It passed out on a 7-0 vote. There was one member absent at the time. Not much really, well, three points I'll make about with the bill. LB233 and now AM1179 first changes law so as to eliminate the financial needs test for the Crime Victim's Reparations program which requires applicants to prove the damages they incurred as a result of this crime exceed 10 percent of their net worth. We're the only state to have this type of financial needs test. Eliminating the requirement will greatly simplify the application process for victims and ensure that all crime victims are able to seek reimbursement. The change will not jeopardize the fiscal stability of the program or result in a surge of applications. There are other provisions that already exist in the act which ensure that awards are capped at a dollar level and mandate that the CVR Fund is the payor of last resort already. A second change proposed in the amendment is to remove the requirement that the names of all victims who receive compensation under the act are published in the annual report by the CVR committee to the Legislature and Governor. That is an electronic report. The Crime Commission produces an annual report which details the committee's actions and summarizes the number of applications, hearings, awards, and whatnot. The inclusion of the names of the individuals and the facts of each case in the annual is unnecessary and could potentially discourage victims from applying. The CVR committee will continue to provide information about specific applications to the

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Legislature or Governor upon request. The final section of the bill strikes outdated statutory provisions which requires the CVR committee to certify awards to the Department of Administrative Services and directs DAS to issue a warrant for payment from the fund. This statute no longer reflects current practice in which the hearing officer certifies awards and payments are processed through the Nebraska Information System. So with those three changes, I would ask you to vote green on AM1179. Thank you. [LB99 LB233]

SENATOR CARLSON: Thank you, Senator Pirsch. You've heard the opening on AM1179. Are there senators wishing to speak? Seeing none, Senator Pirsch, you're recognized to close. He waives closing. The question is, shall AM1179 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB99]

CLERK: 29 ayes, 0 nays on adoption of Senator Pirsch's amendment. [LB99]

SENATOR CARLSON: AM1179 is adopted. [LB99]

CLERK: I have nothing further on the bill, Mr. President. [LB99]

SENATOR CARLSON: Senator Murante for a motion. [LB99]

SENATOR MURANTE: Mr. President, I move to advance LB99 to E&R for engrossing. [LB99]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB99]

CLERK: Mr. President, General File: LB507, a bill originally introduced by Senator Campbell. (Read title.) The bill was introduced on January 23 of this year, referred to the Health and Human Services Committee for public hearing; the bill was advanced to General File. There are Health and Human Services Committee amendments pending, Mr. President. (AM701, Legislative Journal page 873.) [LB507]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on LB507. [LB507]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I'd first like to thank Senator Bolz for making LB507 her priority bill. Each day, I come to the Chamber with a black bag with two photo tags clacking along on that bag, pictures of the youngest love of my life, my grandson, Will. Will has reached a significant milestone, his first 1,000 days of life. Those first 1,000 days are the most critical stage in the

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development of a young child's brain. In this time period young children form key relationships, develop trust, and explore the world around them. These experiences, either positive or negative, determine how well their brains are wired for future learning and health. These 1,000 days lay the foundation for essential social skills and the qualities of mind necessary for future academic and workplace success. Add the remaining two years leading to kindergarten, and we determine in those zero to five years a child's readiness for school, a predictive path of a productive life. Early childhood care and development is not a new topic for the Nebraska policymakers. Since 1990 Nebraska has invested in early childhood grants to school districts to partner with community providers in provision of education, birth to kindergarten entrance. In 2006 the Nebraska Early Childhood Education Endowment program was established in state statute, a \$60 million statewide public and private partnership to provide grants to school districts in partnership with providers to foster high quality for birth to three. This session we dealt with Senator Sullivan's LB495 for funding for grants to school districts and reporting of both of the aforementioned programs, and I'm sure Senator Sullivan will comment on those. Senator Smith's LB585 had a component for early education for children in poverty, through the learning community. What, then, does LB507 lend to Nebraska's early childhood care and education policy? In Nebraska, approximately 88 percent of all parents are in the work force. A majority of our children are in the care of someone else for part of their day. Our state consistently ranks in the top five states of the highest number of mothers with children 0-5 in our work force; 74 percent of children under 6 have all available parents in the work force; over 110,000 children under 6 potentially used childcare; and over 17 percent of the families with children under the age of 5 live in poverty. Early childhood care and education is no longer just the purview of educational professionals, social workers, and child psychologists but more and more is viewed by the business community as the foundation for the future Nebraska work force. At the end of my opening, you will receive a letter from Jim Krieger, CFO and vice chair of Gallup and chairman of Nebraska's Early Childhood and Business Roundtable, a statewide network of business leaders; and we'll also provide you a list of the businesses across the state that participate in this roundtable. And the State Chamber as a part of their winter board meeting brought in noted Nobel Prize-winning economist Dr. James Heckman to address the skills problem, the growing gap in learning achievement. It isn't enough to establish safety and health standards for early childhood care and education centers; we need to be concerned about quality. LB507 begins building a quality rating improvement system for early childhood care and education centers receiving child subsidy vouchers. Eligible parents are those at 120 percent of the federal poverty level; and for a single mom with one child, that annual income would be \$18,156. The subsidy program covers well over 43,000 children. Public funds currently spent on childcare are intended solely to serve as a work support for low-income working parents; through the diligence of Senator Harms, the required hours can also be met through education classes. The subsidy means a parent can work, go to school, and get help with childcare. And here, colleagues, is one of the most important reasons that we should

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look at LB507. Nebraska spends nearly \$95 million for childcare subsidies in federal and state funds. But there is not one minimum standard of quality for child development, and therefore no consideration is given to whether or not these funds purchase the kind of care found to reduce the achievement gap for children at risk of failing in school. But why care about quality? Dr. Heckman, as I mentioned, the economist, said, and I quote: The gaps in these skills open up between the advantaged and the disadvantaged before any of these kids enter school. The gaps that are there when people are going to college are basically the same gaps that were there when they entered kindergarten. Children utilizing the childcare subsidy are often the same children that arrive at school one to two years developmentally behind their peers and never catch up. Without a standard of quality, Nebraska pays twice: we pay for the subsidy, and then we pay for remediation classes or special education. LB507 is intended to meet four objectives: to bring accountability for the public funds invested in childcare and early childhood education, to help providers who choose to improve quality, to inform parents who seek childcare and early childhood education for their children, and to improve child development and school readiness. LB507 adopts the Step up to Quality Act, putting in place a quality rating and improvement system called QRIS, with a scale of steps from 1 to 5. The system is available to all who provide childcare and early childhood education programs, voluntarily. But participation is required for the programs that receive significant amounts of public funds. LB507 phases in mandatory participation: year 1, for programs over \$500,000... [LB507 LB495 LB585]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB507]

SENATOR CAMPBELL: ...in year 2, those programs receiving over \$250,000; and in year 3, those programs that have reached that \$250,000. The bill provides that the Department of Education and Health and Human Services shall cooperatively develop, implement, and provide oversight for the quality rating and improvement system and make program ratings public beginning in 2017. The QRIS program is utilized by 19 states. Many of its components were piloted in 2005 and 2006 in Nebraska. Professional consultation through its development in Nebraska was provided by nationally recognized childhood expert, and a friend of many of us in the Legislature, Dr. Helen Raikes. I want to also highlight the collaboration work... [LB507]

SENATOR COASH: Time, Senator. Thank you, Senator Campbell. As the Clerk has stated, there is a committee amendment, so, Senator Campbell, you are recognized to open on AM701. [LB507]

SENATOR CAMPBELL: Thank you, Mr. President. And I will conclude my remarks to the underlying bill. I want to emphasize, this program is voluntary for all licensed providers across the state. So if you have a provider in your home community, Mrs.

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Jones who takes care of kids and is licensed, she can do this voluntarily. But it is mandatory for our largest recipient providers of public dollars: 1 participant and provider of over \$1 million, 15 providers of \$500,000 or more, and 46 providers across the state at \$250,000. We are spending \$95 million annually without minimum standards of quality. LB507 is a smart, accountable, and measurable investment of public funds. Quality childcare meets both the needs of the providers as they work with parents. My grandson Will's parents had all of the resources to research, to look for, to know what quality was. I want a system where every parent, no matter of their income, can know what quality is to see how their center stacks up and to know that their child has good-quality care. LB507 gives a system structured for parents to know that and what quality is and who meets it. The committee amendment is, really, a restructuring of the underlying bill--we took out redundant phrases; we tried to group things more--and it eliminates redundant language and clarifies terms, for example, making sure that fiscal year means the state's fiscal year. So the substantive part of LB507 is still very much a part of AM701. And with that, Mr. President, that concludes my opening to both the underlying bill and the amendment. [LB507]

SENATOR COASH: Thank you, Senator Campbell. Madam Clerk, we have an amendment to the committee amendment. [LB507]

ASSISTANT CLERK: Mr. President, Senator Conrad would move to amend the committee amendments with AM1173. (Legislative Journal page 1153.) [LB507]

SENATOR COASH: Senator Conrad, you're recognized to open on AM1173. [LB507]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I'm proud to open on this amendment, and I want to start by just drawing the body's attention to the process piece and how this amendment was brought to fruition on LB507 and then to transfer to the substance of the pending amendment and the underlying bill. There are far too many senators on this floor to name each of you individually, but there's no question that early childhood education has been a priority of this body, particularly this session. And that is something that we can be very, very proud of. As we started to look at where we were with the calendar, and our days are ever numbered, and started to look at potential scheduling issues regarding all of the pending priority bills, a small group of senators who were each working on early childhood education and access issues came together to start discussing strategies that could be cooperative and complementary. As part of those discussions, I determined that there was a natural tie-in to my priority bill, LB625, with LB507; and I believe it's critical that we keep access and quality, when it comes to early childhood education and childcare, intertwined, as it should be. So now that's the process piece. When it comes to the substantive, underlying piece, I want to talk a little bit about the childcare subsidy program and what this amendment demonstrates. This is an issue that Nebraska has struggled with since the early part of this decade. During the economic downturn in 2002, eligibility for our

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state childcare program was cut from 185 percent of the federal poverty level down to 120 percent of the federal poverty level. And since that time, it has not been adjusted, despite many promises and many attempts to right the ship in that regard. This is a positive step forward. My original legislation, in LB625, meant to restore eligibility to that level it was at 2002, at 185 percent of poverty. However, recognizing the economic constraints that are before us and working very diligently within the context of the budgetary parameters, I asked the Health Committee to amend that original proposal and to increase our eligibility from 120 percent to 125 percent in the first year and 130 percent in the next year, where it would remain. This is important, colleagues, and let me tell you why. When we made those budgetary decisions to cut our eligibility for this program, our childcare subsidy today is dead last in the country. Eligibility for this critical work support program ranks Nebraska dead last, at 50th in the country. My amendment would help to raise our standard and get us closer to the median value with what our sister states have in regard to this critical work support program and would move us not extravagantly but rather in a very moderate and measured way to about a 44th percent ranking. And let me be clear about what this program does. This is...there's no free lunch for anybody in this program. This program rewards work; it incentivizes work. And the families that participate in this program are required to pay a copay on a sliding scale, based upon their level of income eligibility. I'll tell you, as a young law clerk working in the public policy arena, I was monitoring legislation during the special session wherein this original cut was made, over ten years ago. And I've brought legislation during many years of my tenure as a member of this Legislature to try and draw attention and, again, right the ship in regard to these broken promises that were made to Nebraska's working families. Now as a mom with a young child at home, it's even more special and more important for us to move forward on this, and my understanding about the critical need that quality childcare has for each and every working family has only been heightened through that experience. And I think that that's experience that many families can relate to, whether it's the young families represented in this body or beyond this Chamber. Let me tell you just briefly what happens when families don't have access to childcare, and quality childcare at that. This is based upon a report from the Center for People in Need that is represented in my district. Respondents said that they...what happened when they didn't have access to childcare: 5 percent left their child home alone; 7 percent left their child with someone they didn't trust; 14 percent got fired for lack of reliable childcare; 7 percent had to quit their job training program; 12 percent had to quit school; and 16 percent had to quit a job. We hear frequently from people in this body and I agree: families need to take personal responsibility. But our public service safety net should offer a hand up for families who are working hard to achieve economic self-sufficiency. And the childcare subsidy program does just that. Friends, the vote that you have before us today with AM1137 and the committee amendments and underlying legislation is probably the most critical vote you'll have this session when it comes to work incentives and family support. By moving slightly up the ladder in terms of our eligibility, it will be able to improve Nebraska's standing, improve the quality of life for Nebraska working families and

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children, and do so in a measured and responsible manner. Thank you, Mr. President.
[LB507 LB625]

SENATOR COASH: Thank you, Senator Conrad. Members, you've heard the opening to LB507, the committee amendment, and the amendment to the committee amendment. The floor is now open for discussion. Those wishing to speak: Senators Nordquist, Adams, Bolz, Ashford, and others. Senator Nordquist, you are recognized.
[LB507]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of Senator Conrad's amendment and LB507. And I think it's appropriate that they are put together here, largely, Senator Conrad said, because they certainly both deal with the childcare subsidy, both in access to that subsidy and the quality of that subsidy, because we are one of the top states in the country for having all available parents out of the home working. And that means that our children, out of more than most other states, are in the care of providers, of childcare providers. And it's critical for the future of our state and for their success that those kids have access to that care but also access to quality care. And we know that the first five years lays the foundation for academic success down the road, for work success, and for, ultimately, overall success in life. And to ensure that every child, especially those that are most at risk, those that are from low-income families, on the subsidy, get quality childcare. That's why we need LB507. Last year I introduced a legislative resolution, LR510, which was cosponsored by many of our colleagues, to examine early learning and development system across the state and to determine how to make the current system more effective in preparing children to succeed in school and later in life. The study began with a meeting of early childhood education advocates, stakeholders, including members of the state Department of Education, Department of Health and Human Services; Senator Campbell, Senator Adams were there. And in that discussion the one thing that rose to the top is we need to have a way to evaluate the quality of childcare providers across our state. And that's what this bill, the quality rating and improvement system, or QRIS, is designed to do. And this idea isn't something that we just came up with ourselves, but even before the interim study we took and built off of the Race to the Top--Early Learning Challenge grant application that our state submitted, that our Governor's administration worked on, that he signed off on. And one of the key components of that was the establishment of a quality rating system. So it is something that the administration supports and thinks is a good policy to have in our state. And this bill builds upon that application. The Race to the Top grant stated that key early childhood stakeholders in Nebraska have demonstrated and research supports the success that participation in a quality rating and improvement system can bring to early learning and development programs through increased program quality and child outcomes. As a result the early childhood community in Nebraska supports the goal of participation in the system by all publicly funded, early learning, and development programs and, equally as important, increasing participation by other early learning development

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programs such as licensed childcare homes and centers. Because we did not receive that grant, we did not move forward, obviously, with the full implementation. This bill, obviously, brings it down to a more narrowed focus. The larger centers that are receiving--ultimately, when it's phased in over a couple years--more than \$250,000 a year in childcare subsidy...right now, if you're a parent in Nebraska, you don't have a lot of ability to compare childcare centers. You have basic licensure, which up until a month or two ago was missing some very important things like even a sex offender background check. Luckily we've gotten to that point, and the Governor has signed off on regulations related to ensuring background checks of childcare... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR NORDQUIST: ...workers, but we still have some of the lowest licensure requirements in the country. So that is the floor; that...you can know that. You can look at: is it close to my house, can I afford it, or maybe some word of mouth. And then there are a few, about 50 statewide, nationally accredited programs, but those for most people are out of reach financially, especially a lot of middle-class families. So this is the only way that we are going to move forward to give parents the ability to look and compare, with research-based analysis, on what childcare centers they want to send their kid to, to know which ones have staff that have gone through professional development and are experts in early childhood education. This is the way you bring market forces and transparency into childcare. Childcare centers will start competing to improve their quality. Right now, there's no incentive to do that. [LB507]

SENATOR COASH: Time, Senator. [LB507]

SENATOR NORDQUIST: Thank you. [LB507]

SENATOR COASH: Thank you, Senator Nordquist. Senator Adams, you are recognized. [LB507]

SPEAKER ADAMS: Thank you, Mr. President. Members, in its original state when Senator Nordquist filed the interim resolution last year, I had an overriding concern that we were taking too big of a bite of the early childhood apple here. There were a whole lot of well-intended folks at all different levels saying, we need to have better accountability and education standards and all of these things in all of our day cares in the state. And though I think that is still well-intended, I didn't believe then, nor do I today think that is practical or doable. So when LB507 came across my plate, I was very concerned that there were limitations put to it. Let me give you a simple example, and then I'm going to ask Senator Campbell if she'd like some time to further respond to this. Wanting to have quality standards and criteria and accountability for all day-care providers in the state is great, particularly if you are in a large enough population area that you have choices. Now I don't mean to pick on Thedford, but, off the top of my

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head, if it's Thedford, Nebraska, and you have some students that are within the public school's early childhood program, there are standards; but if they aren't, where do they go? They may go down the street or around the corner or whatever is there. And the day-care provider may not meet whatever quality standards we create. And I think we have to be awfully careful about that. But what I see in LB507, and I'll allow Senator Campbell time to respond to this, is a shrinking down of that. And it's my understanding that we're only looking at childhood programs that are receiving subsidies that are over a certain amount. Hence, in those smaller-population areas, where there isn't much to choose from, we are in effect leaving them alone. And it's my understanding, too, in the bill, if the person in Thedford, Nebraska, that's got three kids in the house, doing early day care, early childhood, if they want to try to meet these quality standards, they can, and that will be so posted. Senator Campbell, would you like to respond to that? And I'll yield to you the rest of my time. [LB507]

SENATOR COASH: Senator Campbell, 2 minutes 10 seconds. [LB507]

SENATOR CAMPBELL: Thank you, Mr. President and Speaker Adams. Yes, that is true. We are trying to go after the largest providers; there are some across the state. But, by and large, the centers that we're looking at make \$250,000 in the subsidy area. So these are large centers. This is not Mrs. Smith down the block. If she wants to do it, she can. The other thing that we should make clear here is that if the center, anywhere in this state, is accredited, nationally accredited, it automatically is on level three, which means it meets good quality, they're just going to work to refine that. If it's Early Head Start or Head Start, they're also on step three. And also, if they are a part--and I'm sure Senator Sullivan will talk about this--but if they're a part of the programs that work with the schools and the private providers, they would be on step three because they have already demonstrated a quality. So for Senator Adams' question, there are some centers across the state that may be affected. But as we look at the list, a lot of those will come in under step three because they have demonstrated a quality and they want to refine that. So thank you very much for the question. Thanks, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Campbell and Senator Adams. Senator Bolz, you're recognized. [LB507]

SENATOR BOLZ: Thank you, Mr. President. I am proud to have chosen LB507 as my priority bill, in part because Nebraskans are known for our strong work ethic. Nebraska ranks number 2 in the nation for our participation in the labor force and number 3 in the nation for the number of people who hold down more than one job. A work ethic is a part of Nebraska values. I'm proud of that; I think we should all be proud of that. But, of course, the other side of this equation is that we have a significant number of children in childcare. Of course, Nebraskans are also known for strong family values. And LB507 and AM1137 bring these two values together; they protect both work and family and the values of our state. Parents deserve to know that their children are being cared for in a

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high-quality environment, and children deserve to be kept safe in care. You can use the term "QRIS," you can talk about quality rating systems, but, colleagues, this comes down to some very simple and logical ideas. First, LB507 creates a simple, stairstep rating system for moms and dads across the state who are investing in childcare. It's a tool for soccer moms and dads to make good choices with their hard-earned dollars. These are day-to-day issues for our Nebraska families. Two, it develops tools for improving childcare offered in our state, helping invest in early learning that Senator Adams spoke to, and we've all learned the value of that in this session. Even small providers, as Senator Campbell said, will have the opportunity to improve, and their efforts will be rewarded. Three, with AM1137, it brings more kids into safe, healthy learning environments. This is important. And I know everyone has the ideas and issues on their mind, but it's important to note that the least-safe child is a child who should be in care and isn't, and AM1137 begins to solve that problem. The amendment opens the door to more kids. In order to promote work, in order to promote family values, in order to protect kids, in order to create more quality childcare, LB507 and AM1137 are sorely needed. The ideas are simple and sound, and I urge your green vote. Thank you.
[LB507]

SENATOR COASH: Thank you, Senator Bolz. Senator Ashford, you're recognized.
[LB507]

SENATOR ASHFORD: Thank you, Mr. President. There are so many good things to talk about when we talk about these bills, the underlying bill and the amendment. I was just chatting with Senator Harms, and I'd like to acknowledge the great work the Appropriations Committee has done, specifically Senator Harms, in funding these programs to identify areas where the need is. And Senator Harms can talk about that. But what I am so positive about, this Legislature since I've been back, is this overwhelming desire to coordinate and to collaborate, whether it's education, HHS, in my area of juvenile justice and the courts, to have an ongoing dialogue, which this body has had over the last seven years and continues to have. And each few weeks it seems like we're peeling back the onion a little more as we discover great new opportunities for collaboration. This bill has got collaboration throughout. And the nice part about the Appropriations portion of it is that we are going to have, again, the private match. And we have the opportunity to raise \$16 million for these programs. Let me...on a personal note and why I became so involved personally and why the committee...our Judiciary Committee has been so involved for so long on juvenile issues really goes back to my years in the housing authority; I spent many, many years working with low-income families living in public housing. And, unquestionably, one of the largest and most significant issues for families in public housing...and there are many in Nebraska, and certainly there are many in Omaha. And so many of those families are women and children, and...in fact, almost all of them. And the need for adequate childcare was the overriding concern of these women as they try to get their children to...their older siblings to school and take care of the younger children, at the same time go through

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self-sufficiency programs so they could find a job, get an education from the community colleges. It was...I don't know how many days and weeks I sat down talking to families about this issue. And Nebraska...this is a great business decision. Jim Krieger, I know Senator Campbell mentioned Jim Krieger from Gallup. We...we...Senator Lathrop and I, in working on the CIR bill, had opportunities to sit with Jim Krieger, who is a...who's a good guy, and he's a strong-willed person. And for him to be...but he is a man of great opinions. And he, on this issue, he has the right opinion, and that is to help kids. And I...and his involvement and Gallup's involvement is critical, as is, of course, Bright Futures and all these organizations in Omaha who have had this as a passion, early childhood education. But we don't want to be last in anything. Why would we want to be 50th? How can we...we talked about the bills involving investment in businesses that create alternative energy, windmills and other alternative energy sources, and we talked about being last or near last in generation of wind, and we're upset about that. And I support those bills; I think both bills are worthy of advancement in this body. But on the flip side, when we're dealing with people in poverty...and it is a reality; it's a reality in Omaha, and it's a reality in rural Nebraska. It is...what brings us together is the idea of trying to find a solution to these issues. This is a massively important start, and when we...and, actually, a massively important continuation. The only caveat that I would raise here... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR ASHFORD: The only caveat that I would raise...and one of the struggles we've had on the delinquency side and the juvenile justice side is we have to always be improving our ability to communicate with information. So when we find a family or a young person, a juvenile, in need of help, that we...that all of the agencies who touch that child are intertwined, working together across the state to find real solutions. I do applaud everyone: Senator Bolz, Senator Campbell, Senator Conrad, all the outside groups that have worked on this, the business community. This kind of solution is what makes this body a great place. It is heartening to listen to the discussion. This bill must advance; it must pass; it is critical. It is critical to the future of our children, and with that, Mr. President, I urge the adoption of all the amendments and the advancement of the bill. Thank you. [LB507]

SENATOR COASH: Thank you, Senator Ashford. Senator Cook, you are recognized. [LB507]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise in support of the amendments and the underlying bill. As a member of the Health Committee, I introduced LB359 this year, which had very similar provisions as Senator Conrad's proposal which is presented as an amendment. What drew me to the idea of the childcare subsidy, changing the guidelines for that in our state in addition to the statistics, which I've routed via the pages, broken down by legislative districts, the

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statistics related to children under 18 years of age with all parents in the labor force in Nebraska, is the idea that working families would potentially have to pass up a raise or an opportunity for additional income so as not to lose that access. Working Nebraskans who qualify for the subsidy ran into that problem regularly. Again in my research for LB359, I discovered, as was mentioned by Senator Campbell and Senator Conrad, that in 2002 (sic) the legislators set the eligibility level extremely low, at 120 percent of poverty. And I'm the kind of person that doesn't walk around thinking in these terms of FPL and the acronyms that lots of people who might be a little bit more wonky than I think in terms of. I think in terms of actual money. And I cannot imagine for a family of three, 100 percent of federal poverty level equals \$400 per week gross income. That's per household member. That's \$21 per day for housing, food, utilities, transportation, and, in theory, childcare. So once again I rise in support of this proposal, the quality guidelines included. An additional concern that I had with the original proposal was somewhat touched upon by Senator Adams and was addressed by Senator Campbell in the committee, and I wanted to reiterate the idea that this proposal does not touch the little lady down the street that would...we called her Mrs. Smith in our committee. It does not compel her in any way to participate. However, she would be eligible to participate in the educational programming. With that, I would yield the balance of my time to Senator Conrad if she would choose to take it. Thank you. [LB507 LB359]

SENATOR COASH: Senator Conrad, 2 minutes. [LB507]

SENATOR CONRAD: Thank you, Mr. President. And thank you, Senator Cook, for your leadership on these issues and your eloquent comments of support. And thank you for bringing that planning perspective from your service on the Planning Committee to bear on this critical issue. Also thank you for providing some specifics in terms of what we're really talking about. I was speaking in pretty broad strokes about the underlying policy my first time at the mike during my opening. And let's do talk about what this means for an average family that would be eligible to receive childcare services under this program. Currently, eligibility for a family of three in Nebraska is 120 percent of federal poverty level. What does that mean? That's about \$23,000 per year. Imagine having to provide for all of your basic needs, housing, medical care, utilities, transportation, clothing, the list goes on and on, and childcare, which is quickly becoming one of the driving factors... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR CONRAD: Thank you, Mr. President...in many families' budget. In fact, as we know, childcare costs for an infant in Nebraska actually exceed the cost of in-state college tuition. So that's a pretty dramatic and illustrative point of perspective that I wanted to bring forward. My proposed amendment in AM1137 (sic--AM1173) just in a measured manner moves that eligibility up in two small stairsteps, to 125 percent and 130 percent of federal poverty level. So for that same family of three, now we're talking

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about access for a family that makes \$24,000 a year and \$25,000 a year. So as you can tell, this is definitely focused and targeted to working families who are at or around that minimum wage level and who usually don't have benefits provided as part of those jobs. This is a critical work support program and it's critical that we move forward. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Conrad. Senator Mello, you're recognized. [LB507]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I'll break my remarks into two different sections: one regarding the fiscal note and then one regarding the policy itself. First, the underlying bill LB507, if you look at the fiscal note, roughly has about a \$4 million fiscal note over the biennium. Ultimately, the second-year costs, which is about a little less than \$2.5 million, would be the annual cost moving forward in the out bienniums. But since we don't budget to out bienniums, that's just more for clarification purposes. Ultimately, Senator Conrad's amendment AM1173 has a fiscal note of about \$4.2 million over the biennium. So if you combine both bills, it's about an \$8.2 million fiscal note for LB507. To put that in regards to context in regards to the budget and ultimately the funding and the reserves that are left...Cash Reserve that is left above the minimal reserve, due to the changes in TEEOSA it's estimated that the TEEOSA spending will be reduced by about \$8.1 million. That \$8.1 million on top of the \$41.6 million that's currently left for the floor outside of the Appropriations Committee budget that was released yesterday--or voted on yesterday, I'm sorry--would equate to about \$50 million left for any new spending bills and/or tax expenditure bills. So in the sense of whether or not \$8.2 million can fit and we can afford it, the argument and the debate ultimately is going to be had amongst us of whether or not we want to spend \$8.2 million out of that \$50 million left for the floor on LB507 if we adopt AM1173. Now to the policy. Colleagues, my first year in the Legislature I introduced a bill, LB609, and what that bill did was a unique kind of hybrid of what you have before you. It was a bill that increased eligibility for our childcare work support program as well as it increased quality in the sense that they would provide higher reimbursement rates for those childcare providers who had higher quality programs for the children who qualified for this. It had a sizeable fiscal note, roughly give or take about \$6 million or so a year. We couldn't afford it then because obviously the budget concerns that the state was going through. And over a four-year period we've been unable, unfortunately, to do anything in this specific policy area of providing additional support through work supports through our childcare program in HHS. What you have in the underlying bill of LB507, colleagues, is sorely needed--is sorely needed. For us to spend \$95 million a year in the childcare work support subsidy program and not be able to make the determination of what a quality program is or isn't, is a travesty. And when we talk about building a more performance-based budget that's based on quality and performance measurements and making the determination of funding, what works and what doesn't, what LB507 does is exactly that. It provides a rating system for childcare providers for

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us to be able to make the determination of what kind of quality we're getting when we subsidize childcare for low-income working families, that if we want to move away from childcare providers who are providing substandard environments what we have to do is pass LB507, and we can start providing ultimately measurements and quality ratings on all of the childcare providers who ultimately are receiving \$250,000 or more from the state. We require these kind of benchmarks in our tax incentive programs. It's only fitting... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR MELLO: ...we require these kind of benchmarks when we appropriate \$95 million a year to our childcare subsidy program. But also in Senator Conrad's amendment AM1173, the reality, colleagues, we rank last in the country in regards to providing work support for working families in relationship to childcare. If we value families and we value children like I know we do on a variety of other pieces of legislation, we would be supportive of AM1173 because that's what helps provide working parents the ability to move off of economic assistance is to be able to gradually move them off of a childcare subsidy as they gain a wage increase or a raise at their job. If we want to help families give them a hand up, we have to be able to help them... [LB507]

SENATOR COASH: Time, Senator. [LB507]

SENATOR MELLO: ...move off of a system. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Mello. Senator Gloor, you are recognized. [LB507]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I want to echo Senator Ashford's comment that this bill and the committee amendment is a good business decision. I was pleased that the State Chamber supported it. I was pleased at the handout we've got here from First Five, the business roundtable that supports it--broad listing of employers across the state. And I want to reference, as I often do in my past work history with this sort of an issue, my institution had a day care attached to it, or that was started as part of the hospital. It wasn't something I had anything to do with back in those days but was something that we more or less inherited, and we did so initially as a recruitment tool. It was back in the days when it was even more difficult than it is now, hard to believe, to hire staff in healthcare facilities, and it gave us what we felt was a recruitment edge--and it worked. It did. It also, interestingly enough, was a large player when it came to employee satisfaction, the ability of parents to know that they were leaving their child or children with a valued and trusted day-care provider. But at some point in time...and oh, by the way, we provided a degree of subsidization and some of that based upon income levels. But for almost everybody, the space, some of

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the time and overhead associated with it, was absorbed by the institution and we felt it was a great investment. But it had been in existence for I think about 10 or 12 years, and we had a discussion about moving it to the next level, that being let's make it a preschool--not just a day care but a preschool. The reason we made that decision was feedback that we got from the day-care providers that there were opportunities there, they thought, to bring these kids further and prepare them better for education. And we happened to think it was part of our responsibility as an employer to take that step. It wasn't particularly expensive. It did require a higher level of licensure and, of course, training for our staff to do it, inspections, all of the expectations going from a day-care provider to a preschool. But we made that move. And several surprising things happened. We saw an increase in the number of children who were enrolled to the extent that we had to now say it can only be hospital employees. We had originally expanded it and allowed physicians, clinics in the community to use it, dental clinics in the community to use it. We now had to restrict it strictly to hospital employees because the demand was so high. But one of the interesting components of it that I'll always remember is one of the curriculums that they decided to pursue had to do with signing. And these were for toddlers. The school was only open from I think about age 6 months to 6 years. But these were children who were not yet speaking, hadn't developed vocal skills, but they got into a curriculum with signing. And the amazing thing was to watch these little ones make the sign for eating. I'm not sure I've got it correct. But there were a couple of dozen signs that these kids could come up with before they could speak. They were communicating with each other, they were communicating with the teachers, and they were communicating with their parents who now were learning signing because their children came home communicating before they could talk; before they could say Mom or Dad they were communicating with their kids. The buzz that created in the community is the important point I want to make here, and that is, holding our preschool to a little higher standard... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR GLOOR: Thank you, Mr. President...resulted in a buzz in the community that had other day-care centers now moving towards preschool. Not just us but there were several other employers who I think moved in this direction. A rising tide lifts all ships, and I think what will happen as a result of this legislation, and I'm speaking specifically of LB507 and the committee amendment, is that by increasing the standard of care for certain of these childcare providers in the community, it will also raise the standard of care and quality for other day-care providers. That has a tendency to happen in the business world and in the social services world in our own lives. Keeping up with the Joneses, in this case, has a very positive ring to it and I think will have very positive ramifications. So I'd urge the support of LB507 and the committee amendment. I'm still listening to the discussion on Senator Conrad's...excuse me...yes, Senator Conrad's AM1173. Thank you, members. [LB507]

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SENATOR COASH: Thank you, Senator Gloor. Senator Harms, you're recognized.
[LB507]

SENATOR HARMS: Thank you, Mr. President and colleagues. I do rise in support of both of the amendments and the underlying bill of LB507. One of the things I'd like to share with you, through the Planning Committee this past summer we did a lot of work in regard to early childhood development. Brought a lot of speakers in and a lot of specialists in, in the field. And the reason for that is that I wanted our committee to understand, you know, the needs and the demands that are forthcoming in regard to childhood development and the impact it's having in our educational system and long term what effect it will have on our economy. One of the things that we discovered through our...the University of Nebraska at Omaha through our state Planning Committee, Senator Campbell indicated that we were in the top five of both parents working. Actually we're number two in the nation. On top of that, 75.2 percent of both parents in this great state are working parents. That multiplies the issue that we have. Not only that, you will find...when you look at the research you will find that Nebraska has approximately 160,000 children from zero to five. Of that 160,000...or 150,000...about 60,000 of those children are at risk. And if you go a notch down further, you'll find that out of that, from zero to three, 30,000 of those children are at risk. And colleagues, we're only meeting about 1 percent of those children's needs. And here's the kicker on this whole thing is, in the last census over the last ten years, Nebraska has increased its growth in children to 13,602--that's an increase. The bad deal about all this is that 11,663 of those new children are children at risk. Colleagues, this is going to continue and it's moving at a rapid pace. All the programs that we are seeing now, things that Senator Campbell is doing, the issues that we've...funding that we have tried to...that we have put into the budget to deal with early childhood development, is critical to what happens to Nebraska. If you go further into the studies and the research, you'll find that even the private sector has gotten involved in this aspect; that they're saying that there's certain software...there's certain skills, soft skills they have to have. And now, through neuroscience research, we have discovered and we have found that it develops from zero to three. That's the critical stage and age that this develops. When I was a teacher and I first started in this world of education, I was always taught it was from zero to ten is when the greatest learning capacity takes place. That's not true today. We have zeroed down to find out exactly what it takes, what it...how important it is. Now this LB507 is critical to us because what it does, it informs parents to understand the criteria they need to be looking at to place their children in an appropriate day-care center or early childhood center. It improves the requirements for the director and for the teachers. It provides the appropriate training and provides them the appropriate education and the coaching skills they need to help develop these children. Not only that, it promotes accountability. The one thing we don't have in our early childhood development programs is accountability. We have no idea, colleagues, that the children that we're putting in there from zero to five are receiving the appropriate kinds of educational skills. And when you look at the number of children that

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are at risk going to... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR HARMS: Thank you, Mr. President. If you look at the number of children that are going into our schools that are at risk, it's high. Look at Scotts Bluff County, look at the one map that we were given. Fifty-nine percent of the children that enter Scotts Bluff County are at risk right today. That population base is going to go up. And what at risk means, they don't have the basic skills for kindergarten. And the tragedy about all of this is, we're now measuring our teachers through assessment programs to tell them how poor or how good of a job they're doing, when the children are coming into the school system already behind. And colleagues, they're not going to make up those five years. Very few of those children will be able to make that transfer. Our problems are just beginning in this state. And unless we pay attention to what we're doing now, we're putting all the blocks together, we're putting all of the criteria together to move Nebraska forward so we can make sure that we're competitive in a new changing world global economy. Education is our only... [LB507]

SENATOR COASH: Time, Senator. [LB507]

SENATOR HARMS: Thank you, Mr. President...is our only hope. [LB507]

SENATOR COASH: Thank you, Senator Harms. Continuing discussion, those still wishing to speak: Senators Nelson, Nordquist, Sullivan, Kolowski, Pirsch, Price, and others. Senator Nelson, you are recognized. [LB507]

SENATOR NELSON: Thank you, Mr. President and members of the body. This is an interesting discussion so far, pretty comprehensive. I do have some questions that I would like to ask Senator Conrad if she would yield. [LB507]

SENATOR COASH: Senator Conrad, will you yield? [LB507]

SENATOR CONRAD: Absolutely. [LB507]

SENATOR NELSON: Thank you, Senator Conrad. The first question which I jotted down here I may already have an answer to. But if you know, how many children in Nebraska are currently served by the childcare subsidy? [LB507]

SENATOR CONRAD: Currently, Senator Nelson, there's about 40,000 kids that are in this program, and LB507 would speak to about 12,000 of those kids that are currently in the program and eligible. And my amendment would bring it up to an additional about 3,000 kids annually at 125 percent and 7,000 at 130 percent. [LB507]

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SENATOR NELSON: What was your figure again? 20...23... [LB507]

SENATOR CONRAD: There's about 40,000 kids in the program currently. [LB507]

SENATOR NELSON: Oh. Well, you know, not to divert, but Senator Campbell has put something out here from First Five saying approximately 23,000, or 40 percent, of the state's zero to five at-risk population is currently served by the (inaudible). Now does that number conform with yours? [LB507]

SENATOR CONRAD: I think it does and I know that you're kind of all blanketed with paper this morning, so I apologize for any confusion. I think that some of the statistics may be speaking to different discrete populations within the larger population, and then also keep in mind that they are all best estimates, because they're considered on monthly versus annual. And some kids and families drop off on an annual basis, but we do the best that we can. [LB507]

SENATOR NELSON: By your expansion...well, using your own figures, how many again would we increase to? How many additional children... [LB507]

SENATOR CONRAD: Sure. At the 125 percent level, in the first year that would be about 300 kids a month and about 3,600 annually. And at 130 percent of poverty, that would be about 600 kids a month and about 7,300 annually. So I was speaking about that number, and that's about the size of my hometown in Seward. [LB507]

SENATOR NELSON: All right. When these children arrive at kindergarten, are they on par, caught up to, or advanced beyond other children with no subsidies? [LB507]

SENATOR CONRAD: That's a great question, Senator Nelson. And I think if you look at the packets that were put forward this morning, you can see that the evidence is very clear. When we first started studying this issue, we found that about 30 percent of Nebraska childcare centers had high quality or good quality programs. The other 70 percent left a little bit to be desired. In working with researchers and sister states, they were able to develop a pilot program in 2001, and then roll out different quality measures in line with what half of our sister states have done. And they provided specific benchmarks to check those things, and we saw improvements in terms of less kids being held back, less kids in need of special education. So absolutely the research is unequivocal in that regard. [LB507]

SENATOR NELSON: All right. Do these children at the lower grades need to be given special attention or remediation? [LB507]

SENATOR CONRAD: In general, you mean? [LB507]

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SENATOR NELSON: Yes. [LB507]

SENATOR CONRAD: I think that our schools have been doing a good job in dealing with at-risk kids. But as evidenced in LB507 and AM1137 (sic--AM1173), the earlier intervention we have with the quality programs, the less we're spending at when they enter school at...in need of additional assistance. [LB507]

SENATOR NELSON: All right. If the bill would set up an accountability system to see if these subsidies would reduce the achievement gap, would that be a good thing? [LB507]

SENATOR CONRAD: I think that that's exactly what LB507 is meant to do, is to provide accountability to these dollars and to ensure we are meeting benchmarks for savings in other areas. [LB507]

SENATOR NELSON: All right. [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR NELSON: So my question is, shouldn't we know this before we get started with this expansion? [LB507]

SENATOR CONRAD: Absolutely, Senator Nelson. And the good news is we do. Based upon the experience and models in over half of the states that have developed a quality rating program, we have seen how these quality improvements have made a difference for not only quality of life and student achievement and closing the achievement gap, but also in terms of the state's bottom line, so. And we have a specific pilot project in Nebraska that demonstrates the same. [LB507]

SENATOR NELSON: Okay, thank you. And one final question. Senator Mello mentioned \$6 million. So you have figured...that's down from your original fiscal note on your bill,... [LB507]

SENATOR CONRAD: That's right. [LB507]

SENATOR NELSON: ...which showed I think \$8.5 million and \$11 million at your original, so. [LB507]

SENATOR CONRAD: That's right. The original fiscal note was roughly about \$20 million. With the amendment pending it would be \$1.2 million in fiscal year '14 and \$3 million in fiscal year '15. So you can see that's a dramatic reduction. [LB507]

SENATOR COASH: Time, Senators. [LB507]

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SENATOR CONRAD: Thank you, Mr. President. [LB507]

SENATOR NELSON: All right. Thank you very much, Senator Conrad. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Nelson and Senator Conrad. Senator Nordquist, you are recognized. [LB507]

SENATOR NORDQUIST: Thank you, Mr. President and members. Just on my previous time at the mike I was talking about the potential that this has for certainly giving accountability for public dollars, transparency for public dollars. In other states and I think certainly amongst the providers that receive subsidy, this will have a true ability to drive some competition and some...as I said, market forces into the decision, as well, when you're deciding where you want to send your child for childcare, knowing that those first few years are so important. I think that's why the Governor ultimately signed off on the Race to the Top application that was developed by the early childhood advocates, is because of that understanding...the potential that this has not just giving the rating but giving parents the information that they need to make the best decision for their family and for their child. And that's ultimately what this bill will do, so I think would be a major step forward for childcare quality in the state of Nebraska. As to the underlying amendment, I think Senator Cook did a great job of speaking to it. A couple years ago I introduced a legislative resolution to evaluate some of our public assistance programs kind of through the lens of what barriers do we have and how we can work those programs to help families get to long-term economic stability. That's ultimately what we want out of our public programs. And unfortunately, we're not at the point of a perfect system by any means. In a perfect system we know we would provide temporary support in times of extreme need, and then offer a seamless path to economic stability to allow parents to work their way out with a prioritization on education and career development and building assets so they can get to that point, and these programs would phase away as they grow, but we're not there. And this bill is a proactive...this amendment, Senator Conrad's amendment is a proactive step to help those families work their way to economic stability. According to the Department of Health and Human Services Web site, the eligibility amount is about \$18,000 a year for a family for two, or \$112.99 a month. Now when you start talking about paying rent, paying food, paying everything else, childcare just doesn't fit in there. And if you are at that limit, that \$1,500 a month, and you are offered a 25-cent-an-hour raise or some additional overtime, you no longer would qualify for the program. You would be kicked off. So for that 25-cent-an-hour raise equates to about \$40 a month, you would lose out on hundreds of dollars, \$500 a month, of childcare. And that obviously is an equation that doesn't work for those families to help them transition off, to help them grow in the economy, to help them take career advancements when they come along. And that's what this bill, this amendment ultimately helps us get to that point. We heard as we've talked about this

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issue in Appropriations Committee in the past, certainly as far as the provider rate issue, but also on bills that Senator Mello had, this bill, and Senator Conrad, we've heard stories of families that pulled back from those opportunities to advance themselves... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR NORDQUIST: ...because of this limitation. And this isn't going to be a cure-all but it certainly helps create a little more wiggle room for those families that are trying to work their way to economic self-sufficiency, economic stability, and that's our ultimate goal. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Nordquist. Senator Sullivan, you're recognized. [LB507]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. Well, I certainly stand in strong support of LB507. And however it turns out, we are definitely heading in the right direction. We are recognizing the importance of quality early childhood education programs. The research has told us this is where we need to intervene. The business community is recognizing this; the education community already knows this; and we as a body are recognizing it with this robust discussion we're having this morning. You've already indicated that you see value in investing dollars. You supported LB495 which directs additional lottery dollars to the 3-to-5 grant programs for our public schools and ESUs, and also an additional \$1 million that goes to the Early Childhood Endowment Fund that goes to birth-to-3 programs. One of the premises of this bill is to build accountability into the public funds that we dedicate to these programs for early childhood...quality early childhood programs. And I want to remind the body that to a certain extent we've built accountability into some of these programs that we already fund, specifically to those funds that we direct to the Early Childhood Grant Programs in our public schools and ESUs. In 2001, under the leadership of then-Senator Ron Raikes, LB759 was passed. And that ultimately created Rule 11 in the Nebraska Department of Education, and that is the rule and the standards and the regulations by which early childhood education programs connected to our public schools and ESUs, those are the standards that they have to meet. So those standards deal with providing qualified staff, child-to-staff ratio, appropriate group size, certain health and safety standards, appropriate facility size and equipment, strong family development, and the support components. So these are the very things that, first of all, are already present in the early childhood programs that our public schools support. And I assume, in visiting with Senator Campbell, that those are also some of the very things that in the collaborative effort between the Department of Education and Health and Human Services that will be some of the criteria that these programs are measured against. So I think, all in all...first of all, I want to emphasize the fact that to a certain extent with our public school early childhood education programs we do have

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accountability built into them, and I think it sets a good standard going forward. Thank you very much. [LB507 LB495]

SENATOR COASH: Thank you, Senator Sullivan. Senator Kolowski, you're recognized. [LB507]

SENATOR KOLOWSKI: Thank you, Mr. President, fellow senators. I stand in total support for LB507 and the stated amendments. I want to thank previous senators for their comments, Senator Harms, Gloor, Conrad, Ashford, Cook, and Senator Sullivan with the excellent outline that she just reviewed on the progress and growth of early childhood education emphasis in our state. One of the things I wanted to state and also repeat for all of our fellow senators, something you may not know as far as the University of Nebraska-Lincoln and their involvement with the early childhood area. Just as through Senator Carlson's leadership we okayed a very important water study yesterday, UNL has been holding for the past four or five years an international study on the Water for Food Conference. It will be held next week, here in Lincoln, and that (inaudible) has repercussions upon the production of food around the world; and UNL plays a very major part in that with the Daugherty grants and the emphasis they have on campus. In the same way, UNL is going to be an even greater leader in our very near future as far as the early childhood area with the Susie Buffett Sherwood Foundation and their gift and donation over the years through how they have worked with their Educare Centers and the early childhood emphasis through the College of Education and Human Sciences. It's truly important that we understand the resources we do have there with the university and the role they'll be playing in our future as well. I would yield the rest of my time to Senator Krist, please. [LB507]

SENATOR COASH: Senator Krist, 3 minutes. [LB507]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I think I've sent everyone a link to a very appropriate document that I think that you should look at in terms of the definitions that you're using to make your judgments. This link tells you how the federal poverty line or limits were actually established and were modified over the years. So garbage in, garbage out. You need good information to make good decisions. Your good decisions should be based upon how and what the federal poverty line is. I'm going to come back on my own time and describe it in detail. But to set the stage, I would refer you, once you open it up, to "Critiques of the Official Poverty Measure," second paragraph. And I read...and I quote: Another important critique of the official poverty measure is that it is seriously flawed in continuing to assume that families spend one-third of their income on food. This may have been true when the measure was devised 30 years ago, but it is not an accurate reflection of current realities. Families no longer spend one-third of their income on food and two-thirds on other basic needs. Food now accounts for something closer to one-sixth of the family budget. Housing, transportation and utilities are much larger

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components of family spending. Furthermore, expenses most families now regard as crucial elements of their household budget are simply excluded from consideration...one of those that was not considered in the '50s, and you can take yourself back in history and realize why. Most families did not have to rely...most families were two-parent families and most families did not have to rely on childcare for the one breadwinner to go out and do his or her thing. So I ask you to take a look at that. I'd like to come back and talk about it on my own time on the mike and kind of describe for you what I think policywise and where we are today. And I'd also ask you, if you're interested, to go back to the 2002 dialogue on how we ridiculously cut down to the level that we are; and then we'll have a discussion I think on my own time about where it all stops. Because I think that the opponents to this measure... [LB507]

SENATOR COASH: Time, Senator. [LB507]

SENATOR KRIST: Gosh. [LB507]

SENATOR COASH: One minute. Excuse me. [LB507]

SENATOR KRIST: Thank you, Mr. Chair. I thought I was being called. The...where it all stops. Because the opponents are describing for you that we'll give them this, this year and next year and the following year and the year after. Well, you know what? We took it all away in 2002 and established a baseline that even Mississippi would not be proud of. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Krist. Senator Pirsch, you're recognized. [LB507]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And I want to thank Senator Campbell for bringing forward an idea that keys upon the first few years of life in our children. Those are of critical importance, and I think we all agree on that. I wonder if Senator Campbell may rise for a question or two just to clarify. [LB507]

SENATOR COASH: Senator Campbell, will you yield? [LB507]

SENATOR CAMPBELL: Certainly. [LB507]

SENATOR PIRSCH: Great. Thank you. And with respect to the \$250,000 threshold, what is that the threshold for? How is...what's that applicable to? [LB507]

SENATOR CAMPBELL: We actually start in year one with \$500,000 and that's the amount of money that a provider would receive from child subsidy. Because at this point... [LB507]

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SENATOR PIRSCH: With that...oh, and I'm sorry to interrupt. Does that mean...so \$500,000, year one; but then ongoing \$250,000. But would that be for those type of companies that are subject to the ranking, so to speak; or is that just broadly the whole bill...subjects them to all measures? [LB507]

SENATOR CAMPBELL: Senator Pirsch, in the bill we will first start with those companies who receive, or centers, \$500,000 or more of child subsidy. In year two we go to the \$250,000, and then the final year there's any that might have reached that threshold in the previous year, and that's the amount of child subsidy paid to them; because the subsidy is paid to the provider, not to the parent. [LB507]

SENATOR PIRSCH: Right. And then they would be subject to all...to everything in the bill, correct, though? Am I...? [LB507]

SENATOR CAMPBELL: That is correct. [LB507]

SENATOR PIRSCH: Okay. And I received a handout I think from First Five Nebraska. It said approximately there's 43,000 children statewide who are currently receiving childcare subsidy purchases, and about two-thirds of these are age zero to five. [LB507]

SENATOR CAMPBELL: Correct. [LB507]

SENATOR PIRSCH: Do we know then...so, I don't know, maybe 28 million of those kids I assume then statewide are zero to five, "ballparkish." But if...do we know, are we capturing them with...we're saying that only those day-care facilities that receive subsidies that total more than a quarter-million dollars on an ongoing basis would be subject or caught by these provisions. Do we know how many of those kids then, the roughly 28 million kids, fall into that type of coverage then? In other words, are at such day cares that do receive over a quarter-million dollars yearly from the state. Do we have an indication? [LB507]

SENATOR CAMPBELL: Our estimates, Senator Pirsch, are that we'll reach well over 12,000 children in those categories. Now we could reach more because you have to realize for any other center, or even Mrs. Smith who lives down the block, it's voluntary. So if they want to participate in the program, they can. But it's mandatory for those at those limits that you outlined. [LB507]

SENATOR PIRSCH: Well, I appreciate that. I'm just trying to get a sense, are we going to be capturing the lion's share or most of the, I guess, the economically...or low-income, I think is how it's expressed here, the day cares that those low-income... [LB507]

SENATOR COASH: One minute. [LB507]

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SENATOR PIRSCH: ...children are attending. And apparently there's some 12,000 who will...who do fall into such day cares. I just, you know, wonder if...I guess the idea of setting it that quarter...\$250,000 threshold, was there a...is this patterned on a different state that initiated this, do you know, Senator Campbell? [LB507]

SENATOR CAMPBELL: There are 19 states that have this quality rating, and much of this was taken from the state of Iowa. [LB507]

SENATOR PIRSCH: I see. So Iowa has a similar threshold to the \$250,000. [LB507]

SENATOR CAMPBELL: They have a similar rating. I don't know that they have the threshold. This goes back to Senator Adams' question and which we decided, instead of trying to cover the waterfront, we decided to start with this population. [LB507]

SENATOR PIRSCH: I see. Well, thank you very much for your answers. [LB507]

SENATOR COASH: Thank you, Senator Pirsch and Senator Campbell. (Visitors introduced.) Continuing on with discussion, Senator Price, you are recognized. [LB507]

SENATOR PRICE: Thank you, Mr. President and members of the body. I guess you could say I rise as somewhat of a changed man. Coming down to the Legislature five years ago, I had a certain set of concepts and notions. Science has shown me otherwise; hopefully, led me forward. So I rise with no glib, contrite, or pithy comments, but truly, questions to ask and hopefully to hear answers to or have discussion about. I've come a long way on this topic. But having said that, again I do have some four topics or points. First and foremost, when I look at the maps and the data that we've been given and I see the highlights of at risk and the numbers, not only am I concerned by those numbers; I'm also concerned that we may be painting with a very broad brush and we may be assuming. I'm not here to say that children aren't at risk because they are in poverty. What I am saying is we shouldn't stigmatize those who are at poverty but are not suffering. Not every person who grew up on food stamps or are eligible for that or eligible for free and reduced lunches, are incapable; but yet we tend to lump them all in one group. So I'm concerned because children know these things, they hear these things from us. We set the model. I'm not denying that there's a risk but not every child in that category is at risk. Secondly, as we talk about this and the benefits it will provide, and I believe those benefits will be provided and be realized, I'd like there to be a sunset on this to ensure that we don't continue it on. When you look at the state aid formula, right now, and we talk about K-12, it's actually preschool-12 as I understand it. We had a grant came in for a few years, three to five, and then it becomes a state liability. That's in our state aid formula. With this, we're looking at, instead of having K-12, W-16, with a P-16 initiative, you're talking from womb through college. So I think if we went and put a sunset either here or on Select and we talked about it to see that we're actually deriving

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the benefits we're looking for. There should be no harm in that because those benefits should be there as advertised and said. Third, I'd like to see the funds. I'd like to explore that the oversight cost, the \$3 million to \$4 million, be paid out of the \$94 million we're already receiving. I don't know if that mechanism is there right now, but I don't know either that we can't use out of the \$94 million part of that money for oversight and not make that a General Fund obligation. It depends on the grant. Finally, after learning about Dr. Shonkoff's work, seeing the work that Dr. Raikes has done and others, I had what I considered maybe an epiphany; others might just call it a dull thud. If the state really wants to invest in our children and our youth, I would propose that really sharp people get together and we take "Hooked on..."... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR PRICE: Thank you...a program like "Hooked on Phonics," and we put it on NET every day, Monday through Friday, from 9:00 to 10:00 in the morning. And that you run four 15-minute segments and that every man, woman, and child out there who wanted to go in that program could check that program out, and that we buy a universal license for the state. And every man, woman, and child could check that program out and they could tune in the TV whether they're in a day care, whether they're at home, and they could tune in and do that program; because that program works. I have three children who went through it and they've all done exceptionally well on reading, and that is the fundamental key. That's what I would like to see happen. I'd like to see the state move forward in that way. If we really want to teach them to read, let's teach them to read. If we really want to take care of the knowledge we've gotten from the studies that show how the brain development happens with language... [LB507]

SENATOR COASH: Time, Senator. [LB507]

SENATOR PRICE: Thank you. [LB507]

SENATOR COASH: Thank you, Senator Price. Senator Krist, you are recognized. [LB507]

SENATOR KRIST: Thank you, Mr. President. Good morning colleagues, again, and hello Nebraska. Back to my e-mail, the link that I sent you. I think we have been inundated with paper today so I decided to try something different. Again in that, the title, "Critiques of Official Poverty Measure," my point that I'm trying to get through today is this is not about necessarily pure education. This is about the ability for a parent to place a child in proper day care and go out and work and pay taxes and get to a point where they are away from any public assistance. We heard from several people in the Health and Human Services Committee who came in. One lady, in particular, who is now running the program, and I would venture to guess running a large program, who started out doing what she had to do to educate herself. And in that role, childcare was

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one of those things that she sadly missed and she had the opportunity to take advantage of many programs. Guess what? Today she's off the, as some would call it, the public dole. It took her about seven or eight years to get her education; to take care of her children at the same time, as a single parent; and get to the point that she's at today. And she should be proud. And we should be proud that we did what we did to assist her to get off the public dole. That's what these programs are. They are not subsidized for the rest of their lives. They are a stopgap measure to help them, help us, help our citizens, help Nebraska, succeed. So back to that section on "Critiques of Official Poverty Measure." If the poverty line is not correctly figured, then we now have a flawed formula in order to create a proper funding mechanism. That's my point. "Furthermore, expenses..." and I quote, I read: Furthermore, expenses most families now regard as crucial elements of their household budget are simply excluded from consideration in the poverty calculation. The cost of childcare is not figured in to the thresholds because the families in the 1955 USDA household survey Orshansky used had one wage earner and a stay-at-home parent. Commuting and other travel and work-related expenses that are a part of modern life have a huge impact on family budgets. Expenses associated with today's living have grown. Additional basic expenses mean that more money is required to maintain the same standard of living in today's world. That's why, folks, in 2002...where were you in 2002? In 2002, this state was allowing for 185 percent of the poverty line--185 percent. And some of us have been through the 2009 budget cuts. We know what that was like. We slashed and hacked services and spending across the state in order to do what we had to do, our constitutional duty: balance the budget. They did that in 2002, and this was part of the product that was lost. Now we're not asking with these pieces of legislation to reorient ourself to 2002. We are sadly behind that. We're only asking for 120 percent this year; 2014, 125 percent; and in 2015, 130 percent. We don't need a sunset on this. Folks, we need to increase it. [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR KRIST: We need to get back to 185 percent to get back to where we were in 2002. This is one of those areas that I have talked about frequently, and many of us have talked about frequently, where we had to make tough decisions and cut and slash and balance the budget. And now that we have theoretically a windfall of money coming our way, now we have to start looking at how we're going to spend it wisely, how we're going to save it, and what services are going to be restored. If I can help someone go to work or go to school and get out of the cycle that they're in, the cycle of poverty, my money goes on restoring those kinds of services. This is one. We need to support AM1173, AM701, and LB507. Thank you, colleagues. [LB507]

SENATOR COASH: Thank you, Senator Krist. (Visitors introduced.) Senator Brasch, you are recognized. [LB507]

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SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues, for bringing this forward, to Senator Campbell, to Senator Conrad. I do think it is good legislation to help our parents be assured that their day cares are quality day cares, higher-quality day cares. When I first pulled up this bill and when I visited with a few individuals about it, I was concerned that, aren't our day cares quality now? That is a concern. As a grandparent, as a parent, you want to know without a doubt that the well-being of your child or grandchild or another child is always in the highest concern and attention regardless. And my concerns, when I...questions, I guess, when I had the legislation, one, is it is voluntary. Senator Campbell, would you yield to some questions, please? [LB507]

SENATOR COASH: Senator Campbell, would you yield? [LB507]

SENATOR CAMPBELL: Certainly. [LB507]

SENATOR BRASCH: Now with this voluntary program, I am concerned that perhaps, you know, there's incentives but are there penalties, are there corrective actions, what are those? I read into this. Could you explain how the beyond incentives how we will be assured that these day cares are providing the best possible care for children? [LB507]

SENATOR CAMPBELL: Sure, Senator Brasch, and that's a very good question, because the whole idea of a corrective action or being on probation has to do with the licensing regulations, not the quality. And if they are in a corrective action or on probation from the department, it means that they have first had some infraction on the licensing and regulations--health and safety, for instance. So if that happens, then that might affect their participation and the quality. But the quality does not bring an infraction. The infraction...and really, corrective action and probation and loss of license, those are very serious. And we have seen those. I mean, you see those in the newspaper where someone has not lived up to the licensing regulations. Does that help, Senator Brasch? [LB507]

SENATOR BRASCH: That does. Thank you, Senator Campbell. I also have another question here. Because I was surprised that there was a necessity for this, I did go to the Web site for the Department of Health and Human Services. And on that Web site I did see that they are participating in a Nebraska quality rating system pilot study that started in 2005. Is that correct? [LB507]

SENATOR CAMPBELL: Yes. It was conducted in 2005 and 2006, and ended. And it ended at that point. And they have used the results of that to build the program that's currently in LB507. [LB507]

SENATOR BRASCH: Very good. And Senator Campbell, another question is, looking at their Web site here, they have a page that says "Child Care in Nebraska," "Choosing

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Child Care for Your Children," "Child Care Subsidy Information." It's a very detailed Web site with a lot of data there already. Would you agree? [LB507]

SENATOR CAMPBELL: Yes. I think the department... [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR CAMPBELL: I think the department provides a lot of good information but I don't know that we've gone to the point of developing that system of rating. We can give people a lot of information but that doesn't tell them specifics, Senator Brasch. [LB507]

SENATOR BRASCH: Thank you. And I also see that in this legislation it will be the year 2017 to post this electronically. That does surprise me and disappoint me. Why will it take four years to add to existing data that is there? [LB507]

SENATOR CAMPBELL: Well, I think what will happen is the centers will get into that system. And I think they want to make sure...the Department of Education and the Department of Health and Human Services wants to make sure that that center has time to develop those quality standards before they post it. I think it's a fairness and equity issue. But Senator Brasch, I can certainly inquire as to whether they would move it up sooner. I think you're asking a very good question. [LB507]

SENATOR BRASCH: Thank you. And I... [LB507]

SENATOR COASH: Time, Senators. [LB507]

SENATOR BRASCH: ...do support AM1173 and LB507. Thank you. [LB507]

SENATOR COASH: Thank you, Senators. Senator Avery, you are recognized. [LB507]

SENATOR AVERY: Thank you, Mr. President. My reading of this bill tells me that it is not only an important bill but it is also a modest bill. And I say it is important because it is clear that we need to provide some assistance to these families. These are working poor families and it is an expensive proposition to put these kids into day care, we know that. But we also know that early childhood education, to the extent that it takes place in the childcare centers, and I've had a child in that environment and they do quite a good job of early childhood education. That we know. The evidence is crystal clear that it makes a difference in their developmental progress. And when I say this is a modest bill, it's because when you look at where we were in 2002, and I believe Senator Krist addressed some of this, we were at 185 percent of the federal poverty level. And then we dropped that down for good reasons. We had a crisis in 2002 and we dropped that down from 185 percent down to 120 percent--a 65 percent reduction. And what we are proposing to do under AM1137 (sic--AM1173) is to increase the eligibility to 125 percent

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of the federal poverty level in 2014; then 130 percent of the federal poverty level in 2015. So after 12 years...after 12 years of cuts, we're going to add 5 percent? After 13 years....13 years after a 65 percent reduction, we're going to add another 5 percent. This is modest, folks. And if you are getting heartburn over what it will cost, take a look at other parts of our budget. Just looking at the last budget that we adopted in the last biennium, we're spending over \$70 million on the Supreme Court, and we are spending over \$1 billion on education. We are spending over \$100 million on the Department of Revenue. You can look through here yourself. The State College System gets over \$45 million; Correctional Services, \$157 million; Game and Parks, almost \$11 million; State Patrol, over \$53 million. The point here is that what we are proposing under this amendment and the underlying bill is not a huge investment, folks. It is not. In fact, it is modest in every way. And my question then, is this the best we can do? I'm going to support this, but I want to know, is this the best we can do? I heard Senator Krist say even Mississippi does better. That should not be our standard, folks, by any means. The question here, is this the best we can do; or is it all we are willing to do? The need is much greater. In fact, I look at the costs of day care today, and I see that it is a lot more than I have to pay for my son's tuition at UNL. [LB507]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB507]

SENATOR AVERY: In fact, when he was four years old, in childcare, because both he and his...both I and my wife worked, I was paying less for his childcare than I pay for his tuition at UNL. This program, folks, is needed. And if I had any way to change the whole proposal, it would be: let's do more. Because we are now proposing 125 percent of the federal poverty level when we had 185 percent back in 2002. It's not quite good enough, folks. So let's get on with it and let's do what we are proposing to do here, even though it's modest. Thank you, Mr. President. [LB507]

SENATOR KRIST: Thank you, Senator Avery. The Chair recognizes Senator Lathrop. [LB507]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I am in support of LB507. And after listening to the debate thus far, I make two observations. One is that a lot of us will get up on the floor and talk about being free marketers, right? We want...the market will take care of it; let's be a free marketer. Senator Kintner is shaking his head yes. He's a free market guy. You know what? The free market is going to work when people have the information they need to make an intelligent and an informed decision, and this bill will help in that regard. And it will create competition to be better. Everyone is going to want to be at the highest level so that they can secure the clientele that they're after. The other thing is, and the second point that makes this such an attractive piece of legislation for me, is that, you know, we look at and struggle

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in this body all the time with how do we help people step out of poverty, help people help themselves without making them dependent. And I can tell you that one of the barriers to people helping themselves is the cost of the childcare. How do you get to school? How do you get to the job? How do you do the things that help you move from poverty to the middle class, to self-sustaining without having the assistance along the way that is intended to move you from one state to the next? And I think this bill accomplishes both purposes and deserves our support. And with that, I'll share the rest of my...the balance of my time to Senator Campbell. [LB507]

SENATOR KRIST: Senator Campbell, you've been yielded 3 minutes and 15 seconds. [LB507]

SENATOR CAMPBELL: Thank you, Mr. President, and thank you, Senator Lathrop. I wanted to go back because there's been some discussion on the floor about what does "at risk" mean, because you're looking at the information that we distributed. When we say at risk, we mean at risk of failing in school. The at-risk numbers are generated using the definition that the Nebraska Department of Education has used for decades in terms of who they know are at risk of failing in school. Children are considered at risk if they've fallen into at least one of the following four criteria. So we've talked about the first criteria, that being poverty or low income. The second factor that may come in is children who reside in a home where language other than spoken English is used as the primary means of communication. The other two factors, the third factor is children whose parents are younger than 18 or who have not completed high school. And the last is children who were born prematurely or at low birth rate as verified by a physician. So the Department of Education has been looking at these four factors for decades in determining at risk. And we felt that it was important for you to get that map and to take a look at it to have some idea as you go across the state what those percentages are. But this comes again in the best collaboration here that we've seen between the Department of Education and the Department of Health and Human Services. LB507 is that kind of a bill that brings two departments together to say how can we improve and move forward for the quality childcare and early childhood education for our children across the state. And I'm a firm believer that no matter what the income of a child's parents... [LB507]

SENATOR KRIST: One minute. [LB507]

SENATOR CAMPBELL: ...that the quality--the quality--of that childcare is so important and becomes increasingly important as they enter school and eventually in our work force in Nebraska. Thank you, Mr. President. [LB507]

SENATOR KRIST: Thank you, Senator Lathrop and Senator Campbell. Senator Janssen, you are recognized. [LB507]

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SENATOR JANSSEN: Thank you, Mr. President and members. As a father of...well, I guess by the time this bill would take effect, if it does, father of four that are in day care, I should pay particular attention to this. And I can certainly speak to the expense of day care, having both a private provider and also a day-care provider for my children of varying ages, from 9 all the way down to 0. I do have a question. And I tried to call Senator Mello earlier, but he's busy in discussion. And I see him on the floor and he's not taking my calls nowadays; but if he would yield to a question, I'd appreciate it. [LB507]

SENATOR KRIST: Senator Mello, will you yield to Senator Janssen? [LB507]

SENATOR MELLO: Yes. [LB507]

SENATOR JANSSEN: Thank you, Senator Mello. You had mentioned earlier and I just wrote this number down, that this as amended, if amended, would be \$8.2 million to the budget. [LB507]

SENATOR MELLO: Over the biennium, yes. [LB507]

SENATOR JANSSEN: How would that fit with what we have available? And you kind of alluded to it, but I guess my question is, not first off, can we afford it, because I think we can. But if we afford it, what else can't we afford? [LB507]

SENATOR MELLO: I think, Senator Janssen, at this moment in time we'll have to wait and to see when the financial status is released tomorrow when the Appropriations Committee budget bills get advanced or officially become on the floor to General File, in which you'll be able to look at your agenda here, and from there on out there will be a green sheet that shows the underlying balance of what's available for A bills and for the floor. And then all of the bills that are at Select File or on Final Reading with their fiscal note costs, at that moment in time that's really I think when I think members will start seeing how many bills have added up into what dollar amount and where we may have to make changes if we want to see all of these bills start to pass. [LB507]

SENATOR JANSSEN: Thank you, Senator Mello. And that said, I guess point being, this could pass and then we'd get on Select File and say we just can't afford that. Is that correct? [LB507]

SENATOR MELLO: Absolutely, Senator Janssen. That will probably happen no doubt with a variety of bills that may or may not come up. [LB507]

SENATOR JANSSEN: Okay. Thank you very much, Senator Mello. And actually, while I've got you up, do you happen to know...and I just asked this: Do you know what 185 percent of the poverty level is right now, what that number is? [LB507]

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SENATOR MELLO: I believe...I would have to probably...off the top of my head, I thought 185 percent is close to, give or take, in the low 40s I thought, and when it comes to a family of three. [LB507]

SENATOR JANSSEN: Okay. Thank you. And I don't expect that to be dead on. I kind of asked you flatfooted there. Would...is Senator Campbell on the floor? Or she's...if she's not, that's okay. [LB507]

SENATOR KRIST: Senator Campbell, will you yield to a question? [LB507]

SENATOR JANSSEN: And I'll ask the question while she's working her way to the mike. My question is, is there federal dollars available for quality in childcare that we're tapping or untapped at this present time? [LB507]

SENATOR CAMPBELL: Senator Janssen, that's a great question and I was asked that question yesterday by Senator Kintner, and I thought he was going to ask it of me today. Yes, there is. The figures that I have are probably not up-to-date, and so in order to answer your question I have called a meeting of the Department of Education and Health and Human Services, the people involved, and we are meeting at 11:00 Friday to review all the current money that we might be putting in and what money we have slotted to this bill. So Senator Janssen, I think it's a great question and I fully intend to follow up, and I thank Senator Kintner for giving me the heads-up yesterday. [LB507]

SENATOR JANSSEN: Oh, thank you, Senator Campbell. That's all I have. And that was just a question I had and I did not talk to Senator Kintner about that. So I'm glad you were available to answer that. [LB507]

SENATOR KRIST: One minute. [LB507]

SENATOR JANSSEN: Thank you, Mr. President. And I'm concerned; I want to get all that information before we make this decision. I mean, it's a financial decision. I don't think there might be somebody equal or maybe more, I don't know, that's invested more in day care for children than I presently am invested into day care at this particular time and the outcomes of day care. I would tell you this morning, and the brightest part of my day, which will most undoubtedly be, was dropping my daughter off at day care this morning. And a little baby in the baby room fell down and hit his head and bonked it, and got up crying, of course. And I took my daughter out of her car seat and held her up toward this baby--and Scarlet is my baby's name; gave her a hug, and the baby quit crying. And the only reason I tell you that is because I thought it was a cute story and I'm a pretty proud dad. Thank you, Mr. President. [LB507]

SENATOR KRIST: Thank you, Senator Janssen. Senator Dubas, you're recognized.

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[LB507]

SENATOR DUBAS: Thank you very much, Mr. President. Good morning, colleagues. I appreciate Senator Campbell's work on this bill and all of those who have helped her in that work. It's a very important--very important--bill, and I think there are some points that have been made this morning, but I believe they bear repeating. And I think first and foremost is what this bill brings as far as accountability. That is so important. And we have been providing hundreds of thousands of dollars to a variety of day care and preschool early childhood education entities, without a full understanding of how those dollars are being used and an assurance that these dollars are being spent on quality programs. And I think that is, as I said, really bears repeating. And for us to be able to provide this information not only to us as policymakers, I think the questions that Senator Janssen just asked are important and those are questions we have to ask as policymakers. So to have this accountability portion brought into this discussion is very important, as well as it is for those families who are making these critical decisions on who they're going to leave their children with. I have certainly seen what my own children, adult children have gone through as they work to find day care for their family. And it's something that, you know, I guess I'm glad that I didn't have to go through it, but it has certainly helped me recognize why it's so important that we have access to good quality day care and early childhood education. I think what this bill does, too, is it kind of connects the dots. It helps us recognize how do we get the most bang for our buck. When I attend meetings or conferences where business leaders talk, and they talk about the things they'd look for when they are either going to expand their business or bring a business into a community or a state, one of the top things they're looking for is an educated work force. When does that education start? It starts the very minute that child is born. You know, it starts through what the parent brings to that child, but it also includes what do we provide as far as educational opportunities. We spend a lot of money trying to address social concerns in this state, whether it's through the juvenile justice system or foster care or child welfare, Medicaid, you know, just a variety of things that we are trying to address on those social justice issues. We have to--we have to--connect what education can do to help reduce the costs of a lot of those social programs that where education is key. Helping young people as well as adults understand that education will open so many doors for them, will break cycles. That's a lot of what we're dealing with is just that cycle of, you know, if your parent didn't have a good experience in school, they're not going to convey to their children the importance of school. And so how do we...children are born with a natural inquisitiveness. They are born ready to learn. Somewhere along the line I think we do things that tend to try to squash that inquisitiveness. So I think through this bill and other things that we have in place, we can help keep that natural-born inquisitiveness alive and well and help it to grow and help these kids realize the importance of what an education will provide for them as far as, you know, a good job, a future for them to support their families. I had the opportunity to read to some Head Start kids, a week or so ago, in my community of Fullerton. And, you know, just... [LB507]

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SENATOR KRIST: One minute. [LB507]

SENATOR DUBAS: Thank you, Mr. President...just to watch them sitting there so excited and so eager to hear the story. I mean, they just couldn't even sit still. And the comments that they made about the story as I read it demonstrated that they were truly in tune with what was going on. And so what is it that we need to do as a state, what is it that we need to do to encourage our parents, encourage our children, support the businesses and providers who are taking care of our children, what is it that we need to do to ensure that those experiences will be quality experiences, will be places that where we're putting our money will be well-spent. And I think LB507 takes us a long way down that road, and I appreciate Senator Campbell's work on this. Thank you. [LB507]

SENATOR KRIST: Thank you, Senator Dubas. Senator Hansen, you are recognized. [LB507]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. It's been a very educational morning, for sure. I would like to ask Senator Campbell some questions if I could, please. [LB507]

SENATOR KRIST: Senator Campbell, will you yield? [LB507]

SENATOR CAMPBELL: Certainly. [LB507]

SENATOR HANSEN: Thank you, Senator Campbell. I've been doing my research, I guess, since last summer too. I was not involved in the roundtable but I've been doing some research, and the numbers on the map that First Five sent out reflect the...Lincoln County has 300 children in one operation. I called my wife this morning. She's a speech pathologist with the school system and works with those kids from birth to 3, so she validated that that was the large center. My question for you would be, and it pertains to the market rate survey--and I know that's done every other year, I believe it is. Anyway, there seems to be a huge difference in what the payments are for a business that has 300 children and one that, in Omaha, that makes, you know, a half-million dollars; or there's also some, I assume, that make a quarter of a million. But the North Platte day care, children's day-care center, is one that makes a quarter of a million dollars a year. It has 35 percent private pay. It has 65 percent of the children there that the parents are on state assistance. The state rate for Omaha and Lincoln, for instance, as an infant it's \$5; a toddler is \$5; preschool, \$4.50; and a school-age is \$4.50. Now the difference between those numbers and what North Platte day care gets, the infant that Omaha and Lincoln gets is \$5 and the infant in North Platte gets \$3. The toddler in Omaha and Lincoln gets \$5; a toddler in North Platte gets \$2.75. A preschool child in Omaha and Lincoln gets \$4.50; preschool child in North Platte gets \$2.75. This day care is losing money. This day care is struggling. They do offer a four-year Head Start program, so I

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think they're doing the educational part already. It's a high-level, high-class really well-attended, well-staffed center. But they're losing money because of the difference...I mean, not because of the difference. They're just not getting paid adequately to keep their doors open. Is there anything in this study that you're going to do on quality of day cares, the educational part of it, which they would qualify for, and the HHS part of it that they're doing because of the market rate survey? That would be my question to you, please. [LB507]

SENATOR CAMPBELL: Senator Hansen, thank you very much for your question. And I truly am not the expert on the market place (sic--rate) study, so I may have to do some research for you. But in LB507, yes, they would be, because I think the whole emphasis in LB507 between the two departments is to not...to look at professional education and training, technical assistance, ways to incentivize as they move up. And most likely, Senator Hansen, if they're already an Early Head Start, they're already probably at level three; so some of those incentives and helps in LB507 they could apply for. And I should surely think that they would get. [LB507]

SENATOR HANSEN: Okay, well that's good to hear, because they are really struggling, like I said earlier. And it's just because of... [LB507]

SENATOR KRIST: One minute. [LB507]

SENATOR HANSEN: ...the market rate survey. And I don't think that that should hold them down. I would really encourage you, you know, if the bill...if this passes and the Department of Education goes out and looks at some preschools, to look at North Platte. Because it's very well done. Vona Koch and her staff do a great job and it's a great service. I did get a letter from her, and the very last sentence was really telling and I'll end with that. And thank you, Senator Campbell. This is a quote from Vona Koch, the director of the North Platte Community Child Care Center: The state would be in a panic if we had to close because there would be no place for these families to go. And that goes back to what Senator Harms has said, all of us out in western Nebraska: There are no providers to take up that slack. Those families are just going to be out. And then the state is going to say, oh my, what are we going to do now? [LB507]

SENATOR KRIST: Time, Senator Hansen. [LB507]

SENATOR HANSEN: Thank you. [LB507]

SENATOR KRIST: Thank you, Senator Hansen and Senator Campbell. Senator Bloomfield, you're recognized. [LB507]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I think as we look at this, Senator Krist has mentioned a windfall that's headed our way,

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apparently. Hell, a windfall usually comes just before or just after a storm, and the fruit is damaged in that windfall. Let's be careful that we're not dealing with damaged fruit here. We are told that we had to cut the budget severely in 2002 and again a little later on, and cut back on these programs. Let's look at the possibility that maybe we were a little too generous to start with is why we had to cut back in some of these. Let us not forget, as we spend this money that seems to be falling from heaven like manna, that there will be a day of reckoning again. We cannot continue to spend, and I used the term the other day, "like drunken sailors." And I believe it was Ronald Reagan that finished up that quote by saying, "At least the drunken sailors spent their own money." And with that I'd yield the rest of my time to Senator Kintner. [LB507]

SENATOR KRIST: Senator Kintner, you're yielded 3:30. [LB507]

SENATOR KINTNER: Well, thank you, Senator Bloomfield. You're right about the windfall. There is a frenzy to spend every dime we have from the taxpayers. But you know, we have a philosophical difference here. We have people in our body, well-meaning people that think the best thing we can do is to take money from this taxpayer and use it to help this taxpayer or this person over here. Then we have other people that think this is a new day. This is a day when we don't...this is not the 1930s, the 1960s or even the 1990s when we judge compassion by how many people we help with tax dollars. This is a new day. The young people today don't want a government program, they want a good job and they want to be left alone. The winds of freedom, the winds of liberty are blowing across our state. And the people today want us to judge compassion by how many people no longer need government services; not how many more people we can get on the government dole. We were...it was said that in 2002, 185 percent of poverty was the benchmark for who got these services. And I think that that's where we're going. We're only going to raise it 5 percent this year and 5 percent next year, but we're headed for 185. And I think the time to stand for the taxpayers, the time to stand for liberty and freedom is right now and say no, enough. We've got a windfall, give it back to the taxpayers. We've taken too much money, give them back their money. You know, the standard is not how many people we can help, the standard should be total liberty. The standard should be economic freedom and jobs for everybody. We should be working hard to get jobs in this state, not to get more people on government services. You know, it was said that we've got to give these working people some government help so they can make themselves successful. That's like the old song, you got to be cruel to be kind. We're going to put you on a government service, hope you can work your way off of it. And some people do, and I understand that. But the best thing to do is not make the government bigger; not create a more...new entitlement or bigger entitlement; not make more people dependent on government. We need to get more people freedom and good jobs and create an economic atmosphere in this state that fosters growth; and economic growth will solve a lot of our ills. [LB507]

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SENATOR KRIST: One minute. [LB507]

SENATOR KINTNER: Thank you, Mr. President. [LB507]

SENATOR KRIST: Senator Harr, you're recognized. [LB507]

SENATOR HARR: Thank you, Mr. President, members of the body. I'm going to first stand up as a Revenue member and then I'm going to talk about the bill. It's going to be in response to a little bit of what Senator Kintner said. And he talked about smaller government, smaller government, smaller government. And he just passed out a bill, 8-0, out of his committee that increased the size of government, 5 percent this year, 5 percent next year. And then us lowly rest of the members of the Legislature get the scraps. And he doesn't want us to be able to spend any money, that's their domain. How dare you impede on their domain on who gets to spend money and how we spend that money. Folks, that's what we do. We make policy and we decide how money is spent. This is a very good bill. I hear out there we need less government. Well, and that certain people are for equality and results; and others say, I stand for equality and opportunity. Well if you stand for equality and opportunity, this is your bill because right now guess what, you want to know how a kid is going to score on a test, don't look at that kid, look at that kid's parent. Because right now, and this is an embarrassment, but it's a fact, you want to know how a kid is going to score on a test, you look at that kid's parent's income and level of education attainment. And we can pretty much pinpoint how hard that kid is going to go in school and how much money that kid is going to make and then it's a cycle. We need to find a way to break that cycle. And that's what this does. For those who are working poor, and God bless them for working, they aren't sitting on the dole, they're out there working trying to make a living and maybe they started at a lower rung and maybe they'll work their way up and maybe they won't. But we want their child to have the equal opportunity that our children have. I'm very blessed, my kids...my wife works, I'm working poor, I work for \$12,000 a year, but my wife works who makes a little bit more money and we have our kid in day care. And it's a wonderful day-care system started by Senator Kolowski's wife. Not everyone has that opportunity or the money. This provides a step up. Not a hand out, but a hand up to those kids whose only fault in life was they lost the ovarian lottery and they were born to a poor family who couldn't afford to send that kid to a quality day care. That's what this is about...quality day care, so that every kid, when they go to kindergarten are ready to learn and ready on day one and they don't start out two steps behind everyone else trying to catch up. That's what this bill is. This is America at it's greatest. This is us striving that the next generation is going to be better than the last generation. This isn't a handout. There's a bill...or there's an article in today's paper, page 3 of the Omaha World-Herald, State Funding for Preschool Drops, and in this article nationwide amounts varied widely. The District of Columbia spent \$14,000 for every child in its program, while Nebraska spent less than \$2,000 per child. That's an embarrassment again. We want to help these kids, let's help these kids. Let's not blame the kids that did

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nothing wrong. Let's find a way so they can catch up so those who have the ability have the opportunity. Thank you, Mr. President. [LB507]

SENATOR KRIST: Thank you, Senator Harr. (Visitors introduced.) Returning to debate, Senator Scheer, you are recognized. [LB507]

SENATOR SCHEER: Thank you, Mr. President. I just have...want to ask a couple of questions. First, if Senator Campbell will yield to a question, please. [LB507]

SENATOR KRIST: Senator Campbell, will you yield? [LB507]

SENATOR CAMPBELL: Certainly. [LB507]

SENATOR SCHEER: Senator Campbell, I just wanted to clarify, your bill talks about improving...having quality indicators for special education...or for the preschool education and day care and the amendment is something different. Can you please just clarify that the two...for me please? [LB507]

SENATOR CAMPBELL: LB507 deals with building a structure and a system whereby we rate the quality and we put standards of quality in place. The amendment is about the eligibility for that child subsidy. Two different topics, but they are related because we are talking about child subsidy. [LB507]

SENATOR SCHEER: Thank you very much, Senator Campbell. And then my second question would be to Senator Conrad if she would yield please. [LB507]

SENATOR KRIST: Senator Conrad, will you yield for a question? [LB507]

SENATOR CONRAD: Yes, of course. [LB507]

SENATOR SCHEER: Thank you, Senator Conrad. I'm just curious and as my ignorance is showing I'm assuming, but when we talk about expanding this program, do we have some type of a database that we can simply send out some information to some additional parents, or how do we go about notifying people that they are now eligible for these programs? [LB507]

SENATOR CONRAD: Thank you. That's an excellent question, Senator, and by no means demonstrates any ignorance. This is an area, I think, that Nebraska could improve upon in terms of education outreach and awareness when it come to public benefits, programs, eligibility and services. There's no specific appropriation carved out for increased awareness or education related to expanded eligibility in my amendment or the underlying bill. But what we're going to have to do is rely upon existing structures within the Department of Health and Human Services to get the word out to the provider

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community, which they already have established relationships with, and then rely upon our private sector partners, many of the advocates that are here today and that have been working on this legislation across the state to help us get the word out to families. [LB507]

SENATOR SCHEER: Thank you, Senator Conrad. And I guess from a personal standpoint, I think that is something that we as a state need to do a better job of. If we have people that are in need and qualify for programs, we need to find a better way to make sure that those folks are aware and are capable of entertaining those programs. And with that said, I believe Senator Price wanted a few minutes, so I'll yield the rest of my time to Senator Price. [LB507]

SENATOR KRIST: Senator Price, 2 minutes and 15 seconds. [LB507]

SENATOR PRICE: Thank you, Mr. President. Thank you very much, Senator Scheer. So I made some inquiries out in the lobby body to get an answer on the percentage of the federal block grant that can be used for equality initiatives. What was told to me is that they must spend at a minimum 4 percent. Right now they spend approximately 4 percent. They could spend more. What I would propose is that before we add General Fund dollars that perhaps we investigate a matching situation where we say they'll spend a minimum of...let's use 8 percent as a number, and the state would come up with the balance to reach the level we have. Then in the out years as we start to realize the benefit of this, because I believe there will be a benefit, and we're paying a risk premium right now in our school system for unprepared children. There are dollars being spent right now to make up the difference. When we have more prepared children coming through our schools, we shouldn't need that dollar amount to be spent on that purpose. And what we do then is we repurpose those dollars to pay down from that 10 percent demand on their quality and use those dollars for the quality. So in a way, it's a shift and it's paying itself for investment. [LB507]

SENATOR KRIST: One minute. [LB507]

SENATOR PRICE: I believe we can do that, and I believe if we set the parameters now then we can look at that as we go forward. If we don't do it now, it will only be exponentially more difficult. I am not standing in opposition of what we're doing here. I want to say, if we're saying you're going to get a benefit in the out years, and we're spending money now because we don't have that benefit, then when we get the benefit, take those dollars and reinvest them whether it's expanding the availability from 120, 125, 130, 185; or it's paying down that percentage that goes to equality, we can do it. Or even saying any new federal dollars 100 percent would go towards equality up to this 10 percent level and then the balance would be used for other things. We need to do this and we need to level sophistication now. Thank you, Mr. President. [LB507]

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SENATOR KRIST: Thank you, Senator Price. Mr. Clerk. [LB507]

CLERK: New A bill, LB93A, Senator Dubas, (Read LB93A by title for first time, Legislative Journal page 1176.) [LB93A]

Speaker Adams would move to recess the body until 1:30, Mr. President.

SENATOR KRIST: You've heard the motion, all those in favor aye. Opposed, nay. We are recessed until 1:00 (sic).

RECESS

SENATOR COASH: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR COASH: Thank you. Mr. Clerk, do you have any items for the record?

CLERK: One item, Health and Human Services reports LB556 to General File with committee amendments attached. That is all that I have, Mr. President. (Legislative Journal pages 1177-1181.) [LB556]

SENATOR COASH: Thank you, Mr. Clerk. We will proceed to the item on the agenda.

CLERK: LB507, Senator Campbell's bill discussed this morning, committee amendments are pending, as is an amendment by Senator Conrad to the committee amendments, Mr. President. [LB507]

SENATOR COASH: Thank you, Mr. Clerk. We will continue on discussion of LB507, the committee amendment, and the amendment to the committee amendment. Those in the queue: Senators Kintner, Price, Nelson, and others. Senator Kintner, you are recognized. [LB507]

SENATOR KINTNER: Well, thank you, Mr. President. I didn't address the LB507 at all. And I've talked with Senator Campbell and she's going to get me some more information, so I'm not opposing the bill that we're talking about here. I want to get a little more information; see if there is a...what we're doing right now to monitor these day-care centers where we have subsidized citizens or families using them. So I don't quibble...I have a quibble with the basic premise of what we're doing. My problem was with extending day care and putting more people in a government program and asking the people in my district can you work another hour or two this month, someone over

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here needs day care and if you could just pay...you could just dig a little deeper and give a little of your money we can put someone over here on day care. I just think that's the wrong thing to ask of the people of our state. We want to ask the people of our state create jobs, be creative, go out and make something happen with our economy, invest your money, build your business, that's what we want to do. We want to create economic opportunity. We want good high-paying jobs. We want companies coming to our state. And if we have good high-paying jobs, these companies will offer day care for their workers. That would be a much better way to do it. And I'd like to yield the remainder of my time to Senator Price if he is around here. Well, Senator Price has disappeared, so that's it, Mr. President, thank you. [LB507]

SENATOR COASH: Thank you, Senator Kintner. Senator Nelson, you are recognized. [LB507]

SENATOR NELSON: Thank you, Mr. President. We're moving up fast in the world this afternoon. Members of the Legislature and Senator Campbell, I do have a question or two for you if you would yield? [LB507]

SENATOR COASH: Senator Campbell, will you yield? [LB507]

SENATOR CAMPBELL: Certainly. [LB507]

SENATOR NELSON: Thank you, Senator Campbell. You circulated a letter from Jim Krieger in Omaha on, I think, written on February 19, and I read that carefully. He talks a lot about early childhood education and then jumps to childcare. With regard to support of early childhood education, we've already allocated quite a bit, I mean at this point I think through the Department of Education \$4 million a year, that's part of the appropriations bill to be matched, so we total \$16 (million). And then I think Senator Sullivan maybe had some more money going toward early childhood education. And I could ask her that, but I think there is, perhaps, a bill or pending...so there's a possibility there and I'm not sure about that. My question is this, what's the relationship here between early childhood education and day care? Is there any early childhood education other than through the schools and maybe through learning centers in day care, childcare provisions? [LB507]

SENATOR CAMPBELL: I think, Senator Nelson, childcare is generally associated, probably, with zero to three; and early childhood education is probably thought of as ages three and four. The letter that you would have received supports good education and good childcare for zero to five. [LB507]

SENATOR NELSON: Well, now maybe I misunderstood, but if we're talking about the expansion here under AM1173, that's just not confined to zero to five years; that goes on up to nine or ten years old. Is that correct? [LB507]

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SENATOR CAMPBELL: Yes, if you're talking about the amendment, Senator Nelson, I'm so sorry, I missed that. [LB507]

SENATOR NELSON: Well, no, it's all part of the same thing as far as I'm concerned. [LB507]

SENATOR CAMPBELL: Okay. The amendment deals with the eligibility and that's at...we're now at 120 percent. So that deals with the eligibility for childcare, as well as early childhood education. It would also cover some children that are already in school. [LB507]

SENATOR NELSON: But you're talking about childcare as being from zero to three years of age, did I understand that? [LB507]

SENATOR CAMPBELL: Generally that is what it is thought of; and early childhood education is then three and four. But I'll tell you, Senator Nelson, now almost any...a lot of early childcare centers you could not tell much difference between them and a good education. They have curriculums, they have teacher conferences. [LB507]

SENATOR NELSON: All right. When we talk about larger providers, what...how many children are they...do they have in their facility about? [LB507]

SENATOR CAMPBELL: Senator Nelson, that would vary. And some of the large providers have more than one location. So you could have one Senator Hansen talked about where it's very large, 300, 200, a hundred. But some of them may have more than one location that would add up to that. [LB507]

SENATOR NELSON: When we have a provider of that size, is there...I'm just asking this, throwing this out, is there really a need to see if they're providing a quality education for the children that they have? [LB507]

SENATOR COASH: One minute. [LB507]

SENATOR CAMPBELL: Yes, Senator Nelson, I believe there is. Because we don't have any standards at this point; we don't have a system and a structure that tells us that they are providing quality. [LB507]

SENATOR NELSON: All right. In the brief time we have left, in your bill you talk about incentives and I think allocate a million dollars. What is the need for incentives when you've got a large provider? [LB507]

SENATOR CAMPBELL: In that situation, Senator, you would be looking at a number of

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things. Perhaps for that center to offer some extra money in order to bring in additional staff to lower the ratio of children to a teacher. It may be a case of bringing in some continuing education that would help that staff be better qualified to help and teach children. There's any number of ways that you could do that. [LB507]

SENATOR COASH: Time, Senators. [LB507]

SENATOR NELSON: Thank you very much. I may come back with more questions. Thank you, Senator Campbell. [LB507]

SENATOR COASH: Thank you, Senator Nelson and Senator Campbell. Senator Hadley, you are recognized. [LB507]

SENATOR HADLEY: Mr. President, members of the body, I've been here, this is the fifth year, and we go to a lot of different speakers and we go to a lot of different people, presentations, and such as that. And two of the ones that have made the most impact on me since I've been here was a professor from Harvard, and it was in the basement of Blue Cross Blue Shield building, and he talked about the...how a lot of young children are born behind the eight ball and they stay behind the eight ball their entire life and it was because of their early childhood education. And then we had a speaker from Atlanta, Georgia, that talked about the impact of healthcare on young children and how that impacted their learning. And both of those really made an impact, because if we're going to break the cycle for these children, we got to do it young. We can't wait until they're in eleventh grade and then decide we're going to break the cycle. I saw the map of at-risk failure in school. I think that's an important map. It's like I have certain health characteristics that probably put me at risk for a heart condition. Does that mean I'm going to get it? No, but those conditions mean that there's a higher probability that I may have a heart condition. I think it's the same thing for these children that are at risk of failure in school. I'll end up my little talk by...I know you're going to find this hard to believe, but when I was actually working for a living I would walk to work every now and then. And sometimes I'd leave for work about 6:30 and I would walk by a day-care center. And the lights would be on and it would be full of children, 6:30 in the morning. And at times I would have meetings that would go late at night and I would walk past there at 9:00 at night and there would be children in the day-care center. Parents work different shifts; but these children are there. That's where they're spending their time. So we need to give them every opportunity to succeed. So I certainly stand in support of the amendments and the bill. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Hadley. Senator Burke Harr, you're recognized. Senator Nelson, you're recognized. [LB507]

SENATOR NELSON: Thank you very much. And I'll just have one or two more questions for...I guess...let me say this, Senator Campbell, I'm basically in support of

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this, your bill, LB507. I'm still thinking about the amendment and the extent that we can be of help there. But if we're going to go out and we're going to assess the quality of the childcare, this is going to be done by a rating system? Is that right? Why would it not be the advantage of the day-care center to get the best possible rating that they have and why...are we going to award incentives to them for coming up in the world, so to speak? [LB507]

SENATOR COASH: Senator Campbell, will you yield? [LB507]

SENATOR CAMPBELL: Thank you, Mr. President. Senator Nelson, sometimes in providing good quality care from that zero to five, whether it's in a childcare center or it's an early childhood education program, sometimes that quality demands some extra help. And that also can be financial help. And what we're trying to do through this is we're trying to improve that quality and it may take some assistance. In other words, that center will be working with people from the Department of Education and DHHS to improve their quality. We're not trying to penalize people as much as we're trying to help them be better. And that's what we would use the incentives for if they need some financial help for that teacher education that I might have talked about. [LB507]

SENATOR NELSON: And who will develop the criteria then for the awarding the incentives and how much? [LB507]

SENATOR CAMPBELL: The QRIS System is in 19 states. And a lot of the underlying educational principles and research was developed and helped by Dr. Helen Raikes. And I expect that much of that research will form that criteria to be used by the Education Department and DHHS. [LB507]

SENATOR NELSON: All right, thank you. Thank you very much. That's the end of my questions and I appreciate your assistance. Thank you, Mr. Chair. [LB507]

SENATOR COASH: Thank you, Senator Nelson and Senator Campbell. Seeing no other lights, Senator Conrad, you're recognized to close on AM1173. [LB507]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. Let me just start by saying thank you to each member who has had an opportunity to take the mike during the course of this debate. I've heard a lot of interesting perspectives and genuine concerns and legitimate and interesting ideas about how we can improve our childcare services in Nebraska whether that's on the quality side, whether that's on the access and eligibility side, and with an eye towards the future as well. That's a very good day in the Nebraska Legislature from my perspective. And so I thank each member who participated in this thoughtful debate. And we will continue to think about and address some of those issues about how we can improve this moving forward down into the future. I did just want to close quickly because there were a few questions

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directed to me over the noon hour about where our surrounding states were in regards to their eligibility level. I think that it is well-established and we can all agree that it's abysmal for Nebraska to be ranked fiftieth in terms of eligibility and that we can and we must do better for our kids and our working families. This amendment would move us to from 120 percent of poverty to 125 (percent) and 130 (percent) which would improve our ranking to about forty-fourth in the country. South Dakota currently is at 208 percent of federal poverty level, much higher than we are at currently or under the amendment; Iowa at 145 percent; Missouri at 128 (percent), a little bit closer to what is contemplated in the amendment; Kansas at 185 (percent) where Nebraska was up until 2002; Colorado ranges, based upon parameters, their program in between 130 (percent) and 296 percent of federal poverty level; and Wyoming is at 263 percent of the federal poverty level, which I think is a good indication that from the Midwest ethic that we all share in this region we should reward work; we should take care of families. This is a workforce issue; this is our family values issue. And again, I would contend that this is one of the most important work incentive and work support issues that you'll have before you this session. Again, thank you for the excellent debate and I look forward to the same on the Health Committee amendment and underlying LB507. I would ask for your favorable support. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Conrad. Members, you've heard the closing to AM1173 to AM701, the question before the body is shall AM1173 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB507]

CLERK: 26 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB507]

SENATOR COASH: AM1173 is adopted. Returning to discussion on LB507 and the committee amendment. Seeing no other members wishing to speak, Senator Campbell, you are recognized to close on the committee amendment. [LB507]

SENATOR CAMPBELL: Thank you...thank you, Mr. President and colleagues. I very much appreciate all of the questions. This is an area that we all need to be well-versed upon in order for us to set a good quality early childhood education and care for the future workforce of Nebraska. I just wanted to mention real quickly response to Senator Hadley's comments, we passed around for you the booklet which is much of the research from the Harvard doctor that Senator Hadley referred to. And Dr. Shonkoff and director of the Center for the Developing Child at Harvard University did indeed speak to a Nebraska audience and, in fact, many of us also went to a seminar right at the beginning of the session about brain development and the importance of the first five years. He said: the most expensive thing in early childhood is poor-quality care with no return on investment. We make a very large investment in child subsidy in this state of \$94 million with not one quality standard in place, not one system for parents to make

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good decisions about what is the right care for their children. I much appreciate your support on the amendment and certainly the underlying bill. Thank you, Mr. President. [LB507]

SENATOR COASH: Thank you, Senator Campbell. Members, you've heard the closing to the committee amendment, AM701. The question before the body is shall AM701 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB507]

CLERK: 27 ayes, 0 nays on the adoption of committee amendments. [LB507]

SENATOR COASH: Committee amendments are adopted. We return to discussion on LB507. Seeing no members wishing to speak, Senator Campbell, you're recognized to close on the advancement of LB507. Senator Campbell waives closing. Members, the question before the body is shall LB507 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB507]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB507. [LB507]

SENATOR COASH: LB507 does advance. Next item, Mr. Clerk. [LB507]

CLERK: LB507A by Senator Campbell, (Read title.) [LB507A]

SENATOR COASH: Senator Campbell, you're recognized to open on LB507A. [LB507A]

SENATOR CAMPBELL: Colleagues, I want to reiterate one more time that at the request of several senators I'm meeting this Friday with the Department of Education and the Nebraska Department of Health and Human Services to clarify exactly what we are spending our quality dollars on now and how they would fit. So between now and Select File, I hope to have an additional financial report for you. And I would encourage your green vote on this A bill. Thank you, Mr. President. [LB507A]

SENATOR COASH: Thank you, Senator Campbell. Members, you've heard the opening to LB507A. The floor is now open for discussion. Seeing no members wishing to speak, Senator Campbell you're recognized to close on LB507A. Senator Campbell waives closing. The question before the body is shall LB507A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB507A]

CLERK: 28 ayes, 0 nays on the advancement of LB507A. [LB507A]

SENATOR COASH: LB507A does advance. Mr. Clerk, do you have items for the

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record? [LB507A]

CLERK: I do, Mr. President. Your Committee on Enrollment and Review reports LB104, LB140, LB366, LB384, LB384A, LB23A, LB366A, and LB553A to Select File, Mr. President. In addition, an amendment to be printed to LB242 by Senator Mello. Senator Mello also offers LR165, LR166 and LR167. Those are all calling for interim studies. All will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1182-1187.) [LB104 LB140 LB366 LB384 LB384A LB23A LB366A LB553A LB242 LR165 LR166 LR167]

SENATOR COASH: Thank you, Mr. Clerk. Next item on the agenda.

CLERK: Mr. President, LB354 is a bill introduced by Senator Larson. (Read title.) Introduced on January 18, referred to the Agriculture Committee, the bill was advanced to General File. There are committee amendments pending, Mr. President. (AM506, Legislative Journal page 741.) [LB354]

SENATOR COASH: Thank you, Mr. Clerk. Senator Larson, you're recognized to open on LB354. [LB354]

SENATOR LARSON: Thank you, Mr. President. LB354 and AM506, which will become the bill, serve to restructure the Nebraska Corn Board. I will speak directly to AM506 since it will become the bill. The Nebraska Corn Board was created in 1978 as the checkoff program that would help market the corn produced in the state of Nebraska. Throughout the past 35 years, it has developed into a critically important asset that has provided support to the state's corn producers and its overall agricultural economy. This bill was brought in response to the concerns voiced last year by me and Nebraska Corn Board members regarding their frustrations they face as a state agency. The bill, as amended, will make significant structural changes to the Corn Board allowing it to function as a quasi-independent entity. First, it provides for the direct election of the Corn Board members. Currently, there are eight board members appointed by the Governor from eight districts and one at-large member appointed by the board, for the total number of nine board members. AM506, specifically in Sections 4 and 6, keeps the same overall structure of the board and provides for eight directly elected board members and one at-large member selected by the elected board. The districts from which the board members are elected are also kept the same as which...as what is currently in state statute, but the bill gives the Corn Board the option to really designate those districts if it decides it is necessary to more adequately represent its grower members. Aside from the few basic parameters, AM506 lets the Corn Board designate the method and manner in which its elections are to operate. The Corn Board must also contract and pay the Department of Agriculture to oversee the election in order to collect, count, and verify the ballots. This will allow a reliable third party to make sure the elections are clean and as effective as possible. After the bill was originally

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introduced, grower members throughout the state expressed their support for elected board members and are especially interested in this part of the bill. Corn growers have told current board members that they want to be able to elect who represents them on the board, and want an option to remove board members if they disagree with the direction of the Corn Board is going. Allowing for the Corn Board elections places the control in the hands of the grower members, not the Governor, and gives the board members additional accountability to those who elected them. In addition to adding electability provisions, AM506 also gives corn growers the opportunity to ask for a refund on the money they pay to the Corn Board through the checkoff. Refundability options are common in other states checkoff programs and it is another way for growers to pay the checkoff program to hold the Corn Board accountable. Section 15 in AM506 outlines how a corn grower asks for a refund and how the refund will be remitted to the grower. The bill originally had a ten dollar floor that would have restricted the grower from asking for a refund below that amount. On the advice of the Attorney General's Office, the floor was removed in AM506, let's the grower ask for a refund on any amount he or she has paid to the Corn Board. LB354 and AM506 also make changes how the state assessment is collected and remitted to the Corn Board. We worked with the Fiscal Analyst Office, the Department of Agriculture, and the State Treasurer's Office to create and streamline the process for assessment collection. The bill allows for the Corn Board to contract with the Department of Agriculture to continue to collect the assessment from corn marketed in the state. Once the assessment is collected, it will be remitted to the State Treasurer's Office to credit the Nebraska Corn Promotion Fund, which will also be housed in the Department of Agriculture. The monies placed into this fund from the collected assessment will be expended out of the Department of Agriculture every two weeks to the Corn Board. The Corn Board will then control the assessment dollars expended to it from this fund. Additionally, the bill maintains the current assessment rate at five-tenths of a cent per bushel of corn marketed in the state. That assessment rate was raised last year and is not changed by this bill. However, AM506 allows corn growers who pay the checkoff, the option to raise the assessment rate through a referendum and can raise that rate up to one cent. The Director of Agriculture will call a referendum to raise the assessment if seven of the Corn Board members submit a petition or if 2 percent of growers in the state submit a petition. The referendum process, like the election process, will be overseen and certified by the Department of Agriculture and paid for by the Corn Board. Finally, and perhaps most importantly, LB354 and AM506 removes the Corn Board from state government. It would no longer be a full-fledged agency of the state but would become a quasi-independent entity. As mentioned earlier, the state would be involved in certain aspects of the Corn Board's operations in order to maintain the constitutionality of the checkoff program. However, the Corn Board itself would no longer be the state agency it is today. This change gives the Corn Board the flexibility it needs to run itself in a more efficient and grower-centered manner. Right now the Corn Board administration is behold to the bureaucratic requirements of being housed within state government. Corn Board staff have to spend time on burdensome state administrative matters that

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eat up valuable resources they want to devote to working on programs that benefit grower members. Furthermore, the Corn Board wants to have the option to locate its operations where it wants to, bring together other agricultural groups who can unite resources and experiences to benefit all of agriculture in the state of Nebraska. Taking the Corn Board out of state government will allow it to do just that. The Nebraska Corn Board is a vital resource to our state's agricultural industry. Not only does it work to promote our corn growers and their products throughout the country, it also serves as a research tool, an educational service, and an outreach organization to ensure that Nebraska's corn market is successful and productive. All of the funds collected by the Corn Board are managed by those same people who pay into the Corn Board. We owe it to the hardworking corn producers in this state who single-handedly fund this operation to have a Corn Board that will be as effective as possible. And LB354 and AM506 are steps in the right direction to make that happen. Thank you, Mr. President. [LB354]

SENATOR SMITH PRESIDING

SENATOR SMITH: Thank you, Senator Larson. As the Clerk stated, there are amendments from the Agriculture Committee. Senator Schilz, as Chair of the committee, you are recognized to open on the amendments. [LB354]

SENATOR SCHILZ: Thank you, Mr. President and members of the body, good afternoon. The committee amendments, AM506, are a substantial rewrite of the bill as introduced and they're essentially a white copy to Sections 1 through 19 of the bill. The most prominent revisions put in place by the committee amendment involved reassigning collection of the checkoff assessments to the Department of Agriculture, and also assigning the conduct of referendums in district board elections to the department. In effect, the amendment retains the imposition and collection of checkoff assessment and organization of a promotional program as a state activity while employing the newly formed Corn Promotion Board as the vehicle to carry out promotional program. Changes throughout the amendment would remove the board as a collecting entity with authority to contract with the department for actual collection activities. The amendment essentially reassigns collection to the Department of Agriculture and transfers necessary authorities originally assigned to the board to the department instead. The amendment provides that the checkoff collections would be remitted to the department and placed in the Corn Promotion Fund. Section 16 where the Corn Promotion Fund is created is completely rewritten in order to accommodate the assumption of the primary collection role by the department and to insert a number of clarifying amendments and necessary instructions regarding transfers to and from the fund. Section 16 locates the Corn Promotion Fund and the Department of Agriculture for administrative purposes. Except for an initial transition period, the balance of the fund would be expended to the Corn Board periodically to be deposited into an account established by the Corn Board in a qualified financial institution. As the committee

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statement points out, the defined term, qualified financial institution is revised to define the term consistent with the financial institutions qualified as repositories of public funds under the Public Funds Deposit Security Act. The amendment contains other revisions to Section 16 of the bill. The amendment would relocate the authority of the State Auditor to audit checkoff activities to the end of the section and clarify that the scope of the audit includes the expenditures of checkoff funds by the board. The amendment expressly provides the auditors access to necessary records and that the auditor may charge fees sufficient to cover the auditor's cost. As in the original bill, the amendment provides for the transfer of funds in the existing Corn Development Fund to the new Corn Promotion Fund less one million dollars to be retained in the existing fund to retire residual obligations of that fund. Once such obligations are retired, any remaining funds would then be transferred to the Corn Promotion Fund. The amendment retains provisions that any increase in the checkoff rate be approved by the referendum. However, the amendment provides for referendums to be conducted by the Department of Agriculture, again reassigning necessary authorizations for conduct of referendums to the director. The amendment would further provide that a referendum would occur upon the request by seven or more members of the board or upon a petition of 2 percent of the growers. The amendment inserts a mechanism for determination of the results of a referendum and for the change in the rate of collection approved in a referendum to begin thirty days after the termination of referendum approval. The amendment would also assign a duty to the director to oversee direct elections. In effect, the amendment directs that the board will employ the department as a third party for purposes of verifying and tabulating ballots. The amendment specifies the definition of "grower" for purposes of identifying persons eligible to vote in the elections and referendums. As introduced, "grower" included both natural persons and business entities. The amendment limits eligibility to vote to individuals and utilizes the definition of a "grower" for purposes of eligibility to serve on the board. For all other purposes, including duties and liabilities for payment of the checkoff, the amendment would retain the introduced definition. The final significant revision is to Section 18 regarding the expenditure of funds to influence legislation. The bill as introduced utilized what is somewhat boilerplate text that expressly prohibits expenditure of checkoff funds to influence state legislation, or to contribute to political campaigns, and limits expenditures to participate in federal policymaking to a portion of the budget. The amendment would continue express prohibition on influencing state legislation, but is silent regarding federal legislation. Any such activity would be subject to being consistent with advancing the authorized purposes of the Corn Board listed in Section 8. There has been considerable discussion of this provision led by Senator Larson, and as debate unfolds, I anticipate additional details and understandings regarding the role the Corn Board may play in representing or assisting the corn industry in participation in the federal legislative process. There are a couple more minor revisions. The amendment retains the checkoff as a refundable assessment, meaning that while the assessment is always collected, a grower may request a refund provided a request for the refund is timely received. The amendment expands the period during what a refund may be requested to ninety days.

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Also the bill as introduced, limited refunds request to \$10 or more, but the amendment eliminates this threshold so that a request of any amount shall be paid. And with that, I would move for the adoption of the committee amendments and the passage of LB354. Thank you, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Schilz. Mr. Clerk, there is an amendment to the committee amendment. [LB354]

CLERK: There is, Mr. President. Senator Chambers would move to amend with FA68. (Legislative Journal page 1188.) [LB354]

SENATOR SMITH: Senator Chambers, you are recognized to open on your amendment to the committee amendment. [LB354]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, unlike some of my colleagues who are coy and "McCoy" also, I'm not going to pretend that I'm interested in improving this bill. I'm not going to pretend anything. I want to kill this bill. I think it is extremely poor policy. It is imprudent and I will fight against this bill as hard as I would fight against a bill that attempted to blur the line between church and state. But let me tell you for the record what my amendment would do, the first of many, because I think this bill, by the way, is complicated, it does things which I believe the body at large does not know about and is not interested in finding out about. For that reason, I'm going to force a discussion. Here's what my amendment would do. On page...we're talking about the committee amendment now, the white copy, on page 3, beginning in line 1. I would strike beginning with the word "It" through line 5 where you see the word "the," which is the first word on line 5, and I would insert "The" with a capital letter. In other words, there would be a new sentence beginning in line 5. This is the language I would strike: "It is the public policy of the state of Nebraska to protect and foster the health, prosperity and general welfare of its people by protecting and stabilizing the corn industry and the economy of the areas producing corn." For such purpose, the Corn Development Utilization, this board is established. This board is not established and nothing in it establishes or protects the health or the prosperity or the general welfare of the state. It's for a special identifiable interest group, so this language should be stricken. It serves no worthwhile purpose. But before I go into that, I would like to ask Senator Larson a question or two because it's his bill. [LB354]

SENATOR SMITH: Senator Larson, will you yield? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR CHAMBERS: Senator Larson, you said under this bill, this...I'm going to call it the Corn Board without all that other verbiage, that this Corn Board is a quasi-independent entity that will be created by this bill. Is that the term you used,

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quasi-independent? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR CHAMBERS: What does quasi mean? [LB354]

SENATOR LARSON: It means that we as a Legislature will still have oversight over this. It is a creature of the Legislature. The Legislature can still change it... [LB354]

SENATOR CHAMBERS: No, I'm not asking...Senator, I'm not asking for the consequences of that. I'm asking you what the word quasi means when it's applied to anything. What does the word quasi mean? [LB354]

SENATOR LARSON: I would...if you want quasi, I'd say partial government oversight. It's not fully end, but we as a government still have controls on it. [LB354]

SENATOR CHAMBERS: Does it mean when you put it in front of the word "independent" that it modifies that word so it's not completely independent but less than independent? Is that what quasi means when you put it front of the word "independent?" [LB354]

SENATOR LARSON: Yeah, essentially the Corn Board won't be fully independent because the Legislature will have... [LB354]

SENATOR CHAMBERS: Stop, it's my time. Have you read this amendment, Senator, as I've read it? [LB354]

SENATOR LARSON: I've read the amendment. [LB354]

SENATOR CHAMBERS: Would you turn to page 3 of the amendment. [LB354]

SENATOR LARSON: All right. [LB354]

SENATOR CHAMBERS: Beginning with the word "a" would you read... [LB354]

SENATOR LARSON: What line? [LB354]

SENATOR CHAMBERS: In line 8. [LB354]

SENATOR LARSON: Okay. [LB354]

SENATOR CHAMBERS: Begin with the word "a" because we'll get...and read across the line. [LB354]

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SENATOR LARSON: A body politic incorporate and shall be an independent. [LB354]

SENATOR CHAMBERS: Independent. It doesn't say quasi, does it? [LB354]

SENATOR LARSON: No. [LB354]

SENATOR CHAMBERS: You would have misled the body had I let you do that, wouldn't you? [LB354]

SENATOR LARSON: I do believe this is quasi-independent. [LB354]

SENATOR CHAMBERS: The amendment doesn't say quasi-independent, does it? [LB354]

SENATOR LARSON: Not in that line. [LB354]

SENATOR CHAMBERS: Show me what line that it uses the term, quasi-independent. [LB354]

SENATOR LARSON: I'll try to find that for you, Senator Chambers. [LB354]

SENATOR CHAMBERS: While you look for it, unsuccessfully, I'm going to proceed. This thing is to be neither fish nor fowl. It is not a state agency. And you know why I say that? Because I have read the bill. In line 10 on page 3, the board shall not be considered a state agency. So, it's not a state agency. It is independent. That means without strings, without attachment to the state, yet it wants the state to fulfill a very important role. It wants the state to make an assessment and collect it for this independent organization. I would like to ask Senator Larson another question. [LB354]

SENATOR SMITH: Senator Larson, will you yield? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR CHAMBERS: And Senator Larson, I'm going to look to you to help me understand this bill. [LB354]

SENATOR LARSON: Excellent. [LB354]

SENATOR CHAMBERS: Now, is this a private entity, because it's not a state agency? So, if it's not a state agency, is it private? [LB354]

SENATOR LARSON: I think I would describe it as I did in my opening as

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quasi-independent in the simple fact that we as a Legislature is a creature of the Legislature and we can change it at anytime. [LB354]

SENATOR CHAMBERS: All right. Is it quasi-private? [LB354]

SENATOR LARSON: It will operate outside of some of the controls of state government, but it will still have good regulations in terms with the State Auditor, will oversight over expenditures. [LB354]

SENATOR CHAMBERS: Senator Larson, did you graduate from George Washington University? [LB354]

SENATOR LARSON: No. [LB354]

SENATOR CHAMBERS: Did you graduate from a university? [LB354]

SENATOR LARSON: A university. [LB354]

SENATOR CHAMBERS: What's the name of that university? [LB354]

SENATOR LARSON: Georgetown University. [LB354]

SENATOR CHAMBERS: Georgetown University. I'm sorry, I stand corrected. Now did they teach you by the time you got to Georgetown, or had you learned it before you got to Georgetown, the meaning of the word "yes" and the meaning of word "no?" [LB354]

SENATOR LARSON: I'm familiar with those two. [LB354]

SENATOR CHAMBERS: Is this a quasi-private organization, yes or no? [LB354]

SENATOR LARSON: Yes, I believe it's quasi-independent. [LB354]

SENATOR CHAMBERS: Is it...so then, it's quasi-private? [LB354]

SENATOR LARSON: If you choose to use those words, I use quasi-independent. [LB354]

SENATOR CHAMBERS: So then, you'd say, no, it's not quasi-private, correct? [LB354]

SENATOR LARSON: I think we're just hashing over two small words that... [LB354]

SENATOR CHAMBERS: Yes, and I want to do that for the record. I want to see what you know about this bill you brought. Is it quasi-private or not? [LB354]

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SENATOR LARSON: If...you say quasi-private, I say quasi-independent (inaudible).
[LB354]

SENATOR CHAMBERS: Then let me ask you another question. Is it quasi-public?
[LB354]

SENATOR LARSON: I would say it is quasi-public as well. [LB354]

SENATOR CHAMBERS: What makes it public? [LB354]

SENATOR LARSON: I think the fact that it's a creature of the Legislature and that we can change what the Corn Promotion Fund will be if it's not working, or if future Legislatures do deem it to be poor public policy, the fact that it's a creature of the state, it's a creature of the Legislature, that it is public and it's also public in the simple fact that it's performing what I see is a policy that helped foster the health, prosperity and general welfare of the... [LB354]

SENATOR SMITH: One minute. [LB354]

SENATOR LARSON: ...Nebraska economy as well as corn farmers across the state.
[LB354]

SENATOR CHAMBERS: Let me ask you another question. Who collects the money?
[LB354]

SENATOR LARSON: Currently, or in AM506? [LB354]

SENATOR CHAMBERS: Under the bill. I'm talking about under this amendment, who will collect this assessment? [LB354]

SENATOR LARSON: The Department of Agriculture. [LB354]

SENATOR CHAMBERS: Is that a state agency or private or semi-independent agency?
[LB354]

SENATOR LARSON: No. The Department of Agriculture is a full state agency. [LB354]

SENATOR CHAMBERS: Is it a part of state government? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR CHAMBERS: And if the department does not collect that money, what

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happens? [LB354]

SENATOR LARSON: Well, essentially, AM506 directs the Corn Promotion Fund... [LB354]

SENATOR CHAMBERS: I know. If it doesn't collect it, what happens according to your amendment? [LB354]

SENATOR LARSON: If the Corn Board...if the Department of Agriculture chooses not to collect it? [LB354]

SENATOR CHAMBERS: Yes. [LB354]

SENATOR LARSON: Well, essentially, we as a Legislature are directing the Department of Agriculture to collect it. [LB354]

SENATOR CHAMBERS: Would you turn to page 16? [LB354]

SENATOR SMITH: Time. [LB354]

SENATOR CHAMBERS: Thank you, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Chambers. Members, you have heard the opening to LB354 and the committee amendment, AM506, as well as the floor amendment to the committee amendment. The floor is now open for discussion. Senator Karpisek, you're recognized. [LB354]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I pushed my button to say that I do like the idea of the board being able to elect the members, or the people being able to elect the members rather than being appointed. I'm not real crazy about individual producers being able to not pay the checkoff or get a rebate. But I guess it works in other states and from the producers that I've talked to, they think that it's a good thing. It doesn't force people to do it. So, I guess I will go along with that idea. I know that we'll probably be in for many questions on this through the day and I will listen because I know Senator Chambers will find different parts of the bill that I probably did not pick up on, but I think that we're moving in the right direction here as a whole. Thank you, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Karpisek. Senator Larson, you are recognized. [LB354]

SENATOR LARSON: Thank you, Mr. President. And I appreciated the spirited discussion and I appreciate Senator Chamber's forthrightness that he has...intends to

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attempt to kill this bill instead of just trying to change it or make it better. And I look forward to that because I think this is a very important bill for agriculture in the state of Nebraska moving forward. I do rise in opposition to FA68 to the committee amendment. In those lines that Senator Chambers is trying to strike, we are articulating that there is a public benefit to the entire state and the Nebraska Corn Promotion Fund will serve a public purpose. Senator Chambers said this is just for a select few corn farmers across the state, it's one specific industry. I disagree with that. This is a very important bill to local economies throughout the state of Nebraska because think of what agriculture does for those economies. Corn farming is one of the major economic drivers in my legislative district. I have a feeling it's one of major economic drivers in Senator Carlson's district, and this and our checkoff...all of our checkoff programs serve a public benefit. Senator Chambers will disagree that checkoff programs are just there to help certain people or certain industries, but the Corn Board can invest...or not invest, that's the wrong word, cannot only promote Nebraska corn through trade agreements, helping local economies, bolstering the price of corn, they can give research dollars to the university to get better seeds, more productive types of corn. Senator Carlson has a great quote and I'm not going to do it justice because I'm not going to say it right, but behind the church, feeding the world is our number one priority. And that's our job here in Nebraska. This serves a public purpose. And to strike that intent language to show that the Corn Promotion Act serves a public purpose and does good for the entire state of Nebraska, I think is irresponsible. I will be voting against FA68 and I'd encourage my colleagues to do so as well, and I appreciate the time. Thank you, Mr. President.
[LB354]

SENATOR SMITH: Thank you, Senator Larson. Senator Schilz, you are recognized.
[LB354]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I thought I'd give just a little bit of history as to how we arrived at this point and how we arrived to LB354. And I can't remember how many years ago it was, but a few years ago during some of our budget problems here in the state, everybody was looking for ways to find money to get the bills paid. And the Governor went out and he looked around and he went to every agency and he said, how can we help this work out? Well, he made it around finally to the Corn Promotion Board, the Corn Board, and looked at that and there was, I think it was like \$700,000 that he was looking to move to the General Fund out of their cash fund that was paid specifically for promotion of that. We worked on the floor of the Legislature to make sure that that money didn't come out of there because we thought it was important that because--and we've established this--because this is public speech, and because it's utilizing that this money should be allocated and should be used for that purpose and not be used for other purposes out there. So one of the considerations in this bill is, how do we make sure that we protect that? How do we make sure that we protect this money that's being paid for this promotion going forward? Because I know around here, we always like to have...to know what things are

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being spent on. When we talked about LB, you know, LB357 and how that was going to work and one of the only reasons I voted for it was because in the end in order to get it in place you had to have a vote of the people and that vote of the people said where that money would go. Same thing with the Corn Board. If we look to...and I understand Senator Chambers objections and it truly is a policy question and he has a legitimate right to ask those questions if this is the best way to go or not. So I don't fault anybody for that. It's a legitimate question. It's one that we can debate here on the floor and it looks like we are definitely going to do that, so here we go. If you look at the Attorney General's letter that was sent to Senator Larson, the Attorney General himself stated that if you're going to look at organizations and what's going on, you could look at organizations and agencies like NIFA and see some of the same things and where he actually used the words, quasi-independent entity, as opposed to a state agency. So the vernacular is out there. You can call it whatever you will and I think we're like dancing around the issues, quasi-private, quasi-public, quasi-independent, quasi-interdependent. We can talk about that all day. Here's the key, and some of the other history that goes out there. We heard from the Corn Board themselves, members of the Corn Board that have told us that they have troubles keeping their employees because other Corn Boards that are out there, such as Iowa that we are modeling this after, can afford to pay their employees better than what the state can here. And as I talked around and as I looked, what I saw was that when you're promoting things, people want the best people they can get, people are willing to pay for that. [LB354 LB357]

SENATOR SMITH: One minute. [LB354]

SENATOR SCHILZ: Thank you. And I'll stand up again and hit my light again. But it's important that we have people that can move forward that understand how to work within the industry, how to promote within the industry, and that those people aren't being cannibalized by other states and other organizations that are able to pay more. The next thing is, state furloughs and that happened as well during the budget crunch. Should people that are promoting products and getting paid by these types of funds be subject to state furloughs? Well, under the current situation, that's the way it is. Under this new bill because they are moved out and away from state government, ostensibly making government smaller, which is something that many of us espouse, to me that makes some sense. To me that's worth all the debate here on the floor. It's worth discussing and I'm glad the bill did make it to the floor and I'm looking forward to the conversation because I think it's important for the state. [LB354]

SENATOR SMITH: Time, Senator Schilz. [LB354]

SENATOR SCHILZ: Thank you. [LB354]

SENATOR SMITH: (Visitors introduced.) We now continue to floor discussions. Senator

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Chambers, you are recognized. [LB354]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I won't have to raise my voice today because I've got plenty of opportunities and if you don't strike this language in one big chunk like I'm doing it, I intend to ask questions. And when I ask Senator Larson, he's going to take a long time, but I'll be able to speak more than three times on this because if you defeat this amendment as I've crafted it, I'm going to offer it again, piece by piece. And you can jump all around you want to, Senator Schilz, and Senator Larson and say quasi this and quasi that, but I'm looking at the language you, Senator Larson, and Senator Schilz, as Chairman of the Ag Committee, put into the bill. You put into the bill, this shall be an independent instrumentality. No quasi. You're trying to put that in. When you say dancing around language, you all are the ones dancing around the language. I'm looking at what's in your bill. Your bill says it's independent. Now, either it's independent or it's not. And you put independent in this part where you're talking about various things that are essential. So what I want to do, as we proceed through this bill, is get my questions answered. And I had asked Senator Larson a question which time ran out on before he could answer it. Senator Larson, I had asked you if the Department of Agriculture refuses to collect this assessment, what happens based on the bill? [LB354]

SENATOR SMITH: Senator Larson, will you yield? [LB354]

SENATOR LARSON: Yes. Will you repeat your question, Senator Chambers? [LB354]

SENATOR CHAMBERS: If the Department of Agriculture refuses to collect this assessment, what does the bill say will happen? [LB354]

SENATOR LARSON: Well, Senator Chambers, I'm not sure why the Department of Agriculture would refuse to collect because it's in statute. [LB354]

SENATOR CHAMBERS: No, will you answer the question? Here's the question. If you had gone to law school, you would know they tell you answer the question as it's asked, not the way you rephrase it. So I'm asking the question in this manner again. If the Department of Agriculture refuses, what...look at me. Oh, you looking for help. Okay, you can get help. [LB354]

SENATOR LARSON: I was just asking. It's not my understanding that they can refuse, Senator Chambers. [LB354]

SENATOR CHAMBERS: Well, if you need help, I don't mind if he stands right next to you and helps you so that my time won't be taken. So if you have gotten your help, what would happen under the bill if the Department of Agriculture refuses to collect the assessment? [LB354]

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SENATOR LARSON: I'm not sure they can refuse, Senator Chambers, because we're putting it in statute that they will collect the assessment. [LB354]

SENATOR CHAMBERS: If they say, in spite of what it says, we're not going to do it, so they can refuse. [LB354]

SENATOR LARSON: Well, state law...we as the Legislature are dictating that they do collect. [LB354]

SENATOR CHAMBERS: What does the bill say will happen if you have a recalcitrant person who says, I refuse to collect the assessment? [LB354]

SENATOR LARSON: The bill doesn't address it because we are directing the Department of Agriculture to collect the assessments. [LB354]

SENATOR CHAMBERS: Senator, do you have a copy of the committee amendment? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR CHAMBERS: Would you turn to page 16? That's the last page in case you need that help. Would you read lines 14 and 15 of the committee amendment? [LB354]

SENATOR LARSON: Any person violating the Nebraska... [LB354]

SENATOR SMITH: One minute. [LB354]

SENATOR LARSON: ...Corn Promotion Act shall be guilty of a Class III misdemeanor. [LB354]

SENATOR CHAMBERS: Now, if they refuse they commit a crime, don't they? [LB354]

SENATOR LARSON: It appears so, yes. [LB354]

SENATOR CHAMBERS: Not appears...did you intend any violation of this act to be a crime? [LB354]

SENATOR LARSON: I think that the current act probably had... [LB354]

SENATOR CHAMBERS: Is that your intent? We're talking about what's in this bill. [LB354]

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SENATOR LARSON: Well, anybody that doesn't comply with Nebraska statutes, we oftentimes as the Legislature put things of this nature in there. [LB354]

SENATOR CHAMBERS: Did they teach you at George Washington what the word "obfuscation" means? [LB354]

SENATOR LARSON: No, they did not teach me that at George Washington. [LB354]

SENATOR CHAMBERS: Did they teach you that at that when you say you graduated from? Because that's what you're doing (inaudible). [LB354]

SENATOR LARSON: None of my classes did we deal with that directly. [LB354]

SENATOR CHAMBERS: This is why we're going to be here a long time. This bill says, any person who violates any of this is guilty of a crime. How many of you knew that? That's what the Agriculture Committee set out here. Any violation of this act is a crime. Did you know that? [LB354]

SENATOR SMITH: Time. [LB354]

SENATOR CHAMBERS: Thank you, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Chambers. Senator Janssen, you are recognized. [LB354]

SENATOR JANSSEN: Thank you, Mr. President and members. Would Senator Chambers yield? [LB354]

SENATOR SMITH: Senator Chambers, will you yield? [LB354]

SENATOR CHAMBERS: Maybe I will and maybe I won't. I'll think about it, but pursuant to the way that Senator Larson answers questions, I think so. [LB354]

SENATOR JANSSEN: Well, then this could take some time. I was just going to ask, how are you doing today? [LB354]

SENATOR CHAMBERS: I'm doing quite well, so far. Like the man who was washing windows on the 100th floor, and the scaffolding broke and he was falling, and as he went past the 45th floor a man leaned out and he said, how are you doing? He said, so far, I'm doing fine. [LB354]

SENATOR JANSSEN: So far. The landing is yet to come, I would assume. And on that note, did you follow the discussion this morning on the day-care bill that we had before

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us? I'm sure you did. [LB354]

SENATOR CHAMBERS: Not closely because I thought it was being adequately covered by both sides. [LB354]

SENATOR JANSSEN: Well, and the reason I ask is, I'm just more of a procedural, not even procedural...scheduling issue is a...I also got to pick my daughter up tonight at day care so I just wondering how long you're going to keep us here tonight, if you could help me out a little bit? [LB354]

SENATOR CHAMBERS: Well, that won't be up to me. That depends on the Speaker. [LB354]

SENATOR JANSSEN: Okay. But if it wasn't up to the Speaker, how long would you keep us here? [LB354]

SENATOR CHAMBERS: What would I do, what would I be if great and rich? That is the kind of question which I cannot prophesy on. As what kind of lion would you be if you could be a lion? So I cannot even conceive of an answer to that question because I can't conceive of that contingency arising. [LB354]

SENATOR JANSSEN: So pretty much I can read through that and say 5:30 is what I...and that wasn't a question. It was just my own thinking there. [LB354]

SENATOR CHAMBERS: I would say you're very optimistic. [LB354]

SENATOR JANSSEN: Well, now I guess that would be up to the Speaker on that point. But you are correct, I am very optimistic. Would Senator Larson yield to a question? [LB354]

SENATOR SMITH: Senator Larson, will you yield? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR JANSSEN: Senator Larson, speaking of your bill, the Corn Board bill, now if I get this right without reading through the entire thing, the...what it does it takes it out of government control and puts it into private control but the government, state government would still be responsible to take the money and fund the Corn Board? [LB354]

SENATOR LARSON: It takes it...it still has government controls. It puts the Corn Board more as a...if Senator Chambers wants to say independent, I say quasi-independent because the government still has modems of control, but the...essentially the Corn

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Board will contract with the Department of Agriculture to collect the excise tax and then it will go to the State Treasurer just as it always does and they'll remit it to the Corn Board. But the Corn Board has to pay the Department of Agriculture to do that. They're not freeloading in anyway. [LB354]

SENATOR JANSSEN: What's the amount of the payment, because I can understand like a collection...I mean there is a process, an administrative process here. And that was my concern, the government is paying for this private board. Is that covered in your legislation? [LB354]

SENATOR LARSON: Yeah, that's covered. Anything that the Department of Agriculture incurs in terms of costs to collect the corn checkoff, the Corn Promotion Fund will have to compensate the Department of Agriculture for that as it will if the State Auditor chooses to audit the new Corn Board. The Corn Board will have to pay for that as well. There will be no free handouts from state government. [LB354]

SENATOR JANSSEN: So, if I may, this is a quasi-voluntary checkoff...I'm sure all corn growers don't agree with it, but it is into one fund for the promotion of their product, and then they want to have more control over how they promote their product, is that the end game here? [LB354]

SENATOR SMITH: One minute. [LB354]

SENATOR JANSSEN: Thank you, Mr. President. [LB354]

SENATOR LARSON: Yeah, they want to have more control over the...not only how they promote the product but they want to ensure that the money that corn farmers are paying go to promote their product and I think that's something very important. Another aspect that comes with this bill, I think you brought up, not everybody agrees with the taxes they pay or the excise taxes and this allows that any farmer that disagrees with the Corn Promotion...or the Corn Board or the Corn Promotion Act can refund their money back. If they don't agree with it, they don't have to pay into it, which I think is very important. [LB354]

SENATOR JANSSEN: Okay. Thank you, Senator Larson. And Senator Larson, could you tell me where you attended college? [LB354]

SENATOR LARSON: Georgetown. [LB354]

SENATOR JANSSEN: I thought it was George Washington. Is there anybody else on this floor that attended George Washington, or Georgetown? [LB354]

SENATOR LARSON: I know of at least two others that attended Georgetown. [LB354]

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SENATOR JANSSEN: Could you name them? [LB354]

SENATOR LARSON: The lovely Senator Cook and Senator Schumacher. [LB354]

SENATOR JANSSEN: Thank you. Thank you, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Janssen. Senator Carlson, you are recognized. [LB354]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm going to give Senator Larson a little rest here and I'd like to address Senator Schilz, if he would yield. [LB354]

SENATOR SMITH: Senator Schilz, would you yield? [LB354]

SENATOR SCHILZ: I will do my best, yes. [LB354]

SENATOR CARLSON: Senator Schilz, in thinking back to previous years and talking about a similar bill, I just want a few things clarified here on the current bill and the amendment that came out of committee. So, to make it crystal clear, who can vote for the eight members? [LB354]

SENATOR SCHILZ: Okay. Thank you. And here's how it comes out in layman's terms. This isn't using the language of the bill, but what we looked at was we wanted to make sure that individuals that were actively engaged in growing corn would be able to vote for Corn Board members and for increases and things like that. And so what that does, is that doesn't just put it in the hands of the big folks, the guys that sell a lot of corn. Even people that are...well, that are working for entities like that or working as farmhands for other farmers as employees, as long as that's the majority of their job, they would also have the right to vote. So it goes down to the individual and we try to keep it away from entities there because we wanted to make sure that people had that right to vote and not entities, necessarily. [LB354]

SENATOR CARLSON: Okay. If I own land and I'm a grower and I've got 160 acres, does that qualify me to vote for a member of the Corn Board? [LB354]

SENATOR SCHILZ: If you are actively...if you are actively in the activity of growing the corn, yes, it would. [LB354]

SENATOR CARLSON: What do I have to do to be active in the activity of growing corn? [LB354]

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SENATOR SCHILZ: I would say that if you are...that if you're managing that land, I think that if you...and this is a question that I will need to ask and make sure that I'm correct here, but I don't know as if you're just cash renting that if you get to do that or not, but if you're actively managing that, doing something like that, or planting the corn, or farming it, you would be able to do that. But I need to check on the cash rent thing. [LB354]

SENATOR CARLSON: Well, I think that could be a clarification because I'd be interested in that. I think in my mind there's a little difference between getting cash rent and getting bushels because there is some management involved in getting bushels even though I'm not on the tractor. So, and I think in owning some land I would like the opportunity to vote for members of the Corn Board, so I would ask you to clarify that if you don't know exactly what the answer is. [LB354]

SENATOR SCHILZ: I would be happy to. [LB354]

SENATOR CARLSON: And then, as I understand it, once the eight people have been elected and they are the board, they themselves will elect the ninth at-large member. [LB354]

SENATOR SCHILZ: That is correct. [LB354]

SENATOR CARLSON: Okay. Now, also as I understand it, if somebody wants to be a candidate they have to get the signatures of eighty growers within their district, is that correct? [LB354]

SENATOR SCHILZ: It comes out...I believe it comes out to that, yes. [LB354]

SENATOR CARLSON: And they also, obviously, the growers whose signatures they get should be growers in that district and then that candidate needs to reside in that district even though he may have land in other districts, would that be true? [LB354]

SENATOR SCHILZ: That is correct. [LB354]

SENATOR CARLSON: Okay. Section 8 and that's on page...I lost it. Because it tells...okay, Section 8, on page 7, these are things that the board "shall," it's not the board "may," so these are duties that the board has, is that fair to say? [LB354]

SENATOR SCHILZ: Correct. Yes, that's fair. [LB354]

SENATOR CARLSON: Then we go down...and I'm not going to go down through each one but we get over on page 8, because most of them are positive statements: "Provide for," "Provide for," "Assist in," "Work for," "Support," but then (h) says "Consider academic scholarships." [LB354]

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SENATOR SMITH: One minute. [LB354]

SENATOR CARLSON: What does that really mean? [LB354]

SENATOR SCHILZ: Well, I would say that they...it's permissible language to be able to give scholarships to folks that I would think would either go into the Corn Promotion field or the research field, or maybe in production agriculture itself. And I think that...I think that that's been something...and I'm not sure if they've done that yet or not, but I think that that would be something that would be beneficial. [LB354]

SENATOR CARLSON: Okay, thank you, Senator Schilz. I want to ask some of those questions for clarification. I've got others as we go along, but I appreciate your response. Thank you. [LB354]

SENATOR SMITH: Thank you, Senator Carlson. Senator Bloomfield, you are recognized. [LB354]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I'm an old farm boy. You look down this list of people that are supporting this have supported it in testimony at the Ag Committee: the Nebraska Corn Board, the Nebraska Corn Growers Association, the Nebraska Cattlemen, Nebraska Farm Bureau, Nebraska Farmers Union, Nebraska Agri-Business Association. Doesn't make me real pleased to stand up here and have to go against all these folks. I cannot support this bill. I didn't vote for it out of committee. Even my own brother said he would like to see it pass, but I can't go there. I just don't believe we're handling it correctly. And with that being said, at this time I'm going to give the rest of my time to Senator Chambers. I will have more to say as we go along. [LB354]

SENATOR SMITH: Thank you, Senator Bloomfield. Senator Chambers, 4 minutes. [LB354]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. And I would like to read, since I've read the bill more recently than those who are sponsoring it, I'd like to read the requirements to be eligible to vote so that Senator Carlson doesn't have to hunt for it, so that committee staff doesn't have to give advice to the senators on the floor, but this Senator who is from the city and a nonfarmer is going to read what the requirements are to be eligible to vote. You can go to page 2, beginning in line 3, for purposes of eligibility to vote in the election, you've got to be a grower and it describes what a grower means. You've got to be an individual who is a citizen of this state, is at least eighteen years of age, has personally engaged in growing corn in this state for at least five years, and derives a substantial portion of his or her income from growing corn. Now, by this definition, I could be a grower eligible to vote,

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but if I did it in Omaha I couldn't find enough signatures of other growers to allow me to run for the board. I could have two acres that I plant in corn. I could have been growing this corn for five years. I'm doing it personally. I'm a citizen and I derive 89 percent of my income from growing that corn. According to this part, I'm eligible to vote for a member of the board. I'd like to ask Senator Schilz a question? Am I right or wrong, Senator Schilz? [LB354]

SENATOR SMITH: Senator Schilz, will you yield? [LB354]

SENATOR SCHILZ: I would believe, you would be correct. Yes, as long as you're deriving your substantial portion from that, yes. [LB354]

SENATOR CHAMBERS: Now, if I wanted to run as a member of the board, would I have to get a petition filled out in order to be eligible to run for the board? [LB354]

SENATOR SCHILZ: I would say that the way the bill is written now, yes, you would probably have to. [LB354]

SENATOR CHAMBERS: So even though I meet the definition of being a grower and I'm eligible to vote, I may not be eligible to run for the board by other language in the bill, isn't that correct? [LB354]

SENATOR SCHILZ: I'm not sure that that's the case, Senator Chambers. I think it's important to understand that there are districts that are set up throughout the state. [LB354]

SENATOR CHAMBERS: Yes. [LB354]

SENATOR SCHILZ: And those districts...those districts are the county of Butler, Saunders. [LB354]

SENATOR SMITH: One minute. [LB354]

SENATOR CHAMBERS: Is Douglas in there? [LB354]

SENATOR SCHILZ: Yep, Douglas, Sarpy, Seward, Lancaster, Cass, Otoe, Saline and Jefferson. So you would have the ability to go out and try to find eighty members. [LB354]

SENATOR CHAMBERS: Very good. You are thinking and looking at what the bill says. The reason I'm doing it this way, not to be tricky, but I spent time reading this bill and it's not mine, and I don't like it, and I will continue to fight against it. Again, thank you, Senator Bloomfield, and I will continue to speak on the bill. [LB354]

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SENATOR SMITH: Thank you, Senator Chambers. Senator Johnson, you are recognized. [LB354]

SENATOR JOHNSON: Thank you, Mr. President and colleagues. Senator Lautenbaugh has passed around a letter which I think pretty well explains some of the things that are happening in here, but I will talk a little bit about the history of the checkoff from my perspective. And my perspective partly would be the entity that was involved with the first purchase of a bushel of corn or ten thousand bushels of corn or up to six million bushels of corn per year as an operator of a grain elevator. I will talk a little bit about the bill, or the corn checkoff program and it has been working. It's worked okay. I think it's time, though, that we looked into it, to look at its structure to see if it can be improved. And what I see in this legislation...are the improvements that I see, first of all, is the election process where it gives the grower, the producer, the...it's producer driven. It gives them the governance control of this. Yes, you need to get signors but that's kind of like the primary election, I guess, is to get people on your side that would support you and then the process goes on from there. The second is the refund option. As an elevator operator, the truck pulls on the scale, or the semi pulls on the scale, and they're ready to sell the corn, but they divide the corn because it's on a share crop, 60-40, 60 for the person that's directly involved in it and 40 percent of it might be or it might be a different percentage, 50-50, the person that owns the ground. Both of those people are the first producer because both have a decision in the input of the fertilizer and the input of how many bushels are going to be grown...how many acres are going to be grown on that farm, but each individual person, whether it's the 60 percenter or the 40 percenter has their own right to sell the corn. One might sell it that day, one might hold it. Both of those happen and whenever that corn is sold, that's when the local elevator actually is the collector of the checkoff dollars. At that point, those dollars are accumulated, and at the end of the quarter, the money is sent in to the Department of Agriculture. The local elevator, the first buyer it could be a field mill, it could be an elevator, it could be a processing plant, any of those that would be the first purchaser then have the responsibility of sending that money in. The refund process is important. I think the only time that I have ever heard of people wanting a refund--and I'll put this in a general category--it's that family that inherited some farm ground and they still want to hold on to some of that responsibility a little bit of being part of the farming. And so they pay the checkoff and when the rest of the family gets together, they say...you know, they don't know if it's helping them that much, so they might ask for the refund. I've not known very many true corn producers that have ever come back and said, it's a bad deal, I don't want to pay anything on the checkoff program. It is grower controlled and that's another important part of it. The government is involved in the point of the Department of Agriculture... [LB354]

SENATOR SMITH: One minute. [LB354]

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SENATOR JOHNSON: Thank you...with the Department of Agriculture having a certain amount of oversight, oversight in the collection, oversight in paying it out, oversight in the auditing and probably some of the procedures that are out there. So from that standpoint, I believe it has enough government intervention or oversight in order for it to remain a viable program. But I believe it still is important that is in the local control of the producers, the ones that want to market their corn. It is a marketing plan and it needs to be...and the control of the local producers, as far as election, the refund needs to be there. I am in support of the amendment, AM506, and eventually the bill, LB354. I'm opposed to the FA68. Thank you. [LB354]

SENATOR SMITH: Thank you, Senator Johnson. Senator Schilz, you are recognized. [LB354]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I wanted to go on here and as we talk about this and I want to bring this up before we go on. And Senator Chambers had mentioned that there were provisions in this bill that would create criminal implications. And yes, that's true. But I think it's also fair to point out and needs to be pointed out that those violations and penalties sit in the statute as it is today. In 2-3635, and I state and quote, "Any person violating any provisions of sections 2-3601 to 2-3635--which is basically the Corn Promotion Act--shall be guilty of a Class III misdemeanor." So, Senator Chambers' question is a valid question. What would happen to the director? And I'm not sure that...I'm not sure that a Class III misdemeanor is what would happen. I would think it would be more like they would...that you would have to do something to compel him to do what is already in the statute as he has been told to, when the statute says "shall." So, we can argue that, but to say that this is...or to imply that this is something new that has just come in I wanted to clear that up. You know, I was looking back at the committee statement as that...you know, to see how that went during the committee thing and we had a number of folks that were in favor of this bill. We had people from the Corn Growers, people from the Nebraska Cattlemen. Senator Loran Schmit, who I have to say, and if you don't know, Senator Schmit was the original sponsor of the Corn Promotion Act back in 1978, and he was adamantly in favor that this was the right direction to go in. Nebraska Farm Bureau, Nebraska Farmers Union, Nebraska Agri-Business Association, the American Seed Trade Association and the others, and then we had folks come in from Iowa who testified in the neutral capacity and these are the folks that actually run the Iowa Corn Board which this bill and this structure is modeled after. And they started their Corn Board the same time in 1978 as Nebraska started theirs. Nebraska went in the direction of a state agency. The state of Iowa went in the direction of a government sponsored private independent agency and we can call it that. That's fine. It doesn't make much difference. It is what it is. We still have control of the appropriation every year. We still have control of how that money is collected. We still have control of how that board is made up and voted on. And so I think there are things in place to make sure that we can keep a watch and keep an eye on what's going on here. I think it's important to note and

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as you start to look at things...when you start to talk about promotion and what goes on and you start to talk about state agencies, time and again we heard from representatives from the Corn Board saying, you know, we're having a tough time getting some things done. And it's about employees and it's about benefits and about things like that. I can tell you right now that in anticipation of this bill, the Corn Board is working diligently... [LB354]

SENATOR SMITH: One minute. [LB354]

SENATOR SCHILZ: ...to come to the table with a new benefits package that's a private benefits package that doesn't involve the state with a new...you know, all of the stuff that they have to do, whether it's benefits, whether insurance, all that stuff has to be privatized and they are working on that right now. The Corn Board really wants to see this happen because they think it can help them move forward and help promote corn growing and what corn can be used for here in the state of Nebraska. And our friends from Iowa over there told us that this model works for them. It works great for them and that they would be all enthusiastic about somebody else implementing it in their state. Thank you very much, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Schilz. (Visitors introduced.) Senator Chambers, you are recognized. [LB354]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I appreciate what Senator Schilz said about what's already in the law. Senator Schilz, I'd like to ask you a question or two on the point that you made. Senator Schilz... [LB354]

SENATOR SMITH: Senator Schilz, will you yield? [LB354]

SENATOR SCHILZ: I'd be happy to, yes. [LB354]

SENATOR CHAMBERS: Under the law as it exists now, is the Corn Board a state agency? [LB354]

SENATOR SCHILZ: Yes, the Corn Board is a state agency. [LB354]

SENATOR CHAMBERS: So, if a violation did occur, then you're dealing entirely within the context of a state agency carrying out its functions and duties under the law as it exists now, isn't that true? [LB354]

SENATOR SCHILZ: Yes, I would say so. [LB354]

SENATOR CHAMBERS: Now, since reference was made to Senator Lautenbaugh's letter, and as the courts always say, that person is not here to be cross-examined and I

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don't take what he says at face value, but let's go to that part where it says, it takes the Corn Board out of state government. Is that what this bill does? [LB354]

SENATOR SCHILZ: I believe that what it does is that it moves that part, and I will get into that as we move forward, but it moves that part of the decision making process as to how that money spends, it moves it, yes, out of state government. [LB354]

SENATOR CHAMBERS: In effect the only thing the state does is collect that assessment, it winds up in the Treasury, which in turn puts it over with the Corn Board to simplify how that money moves, isn't that more or less correct? [LB354]

SENATOR SCHILZ: That's very good, Senator, yes, that's correct. [LB354]

SENATOR CHAMBERS: Now, because we have changed the nature of this board and it's not a state agency, it is an independent operation. Should any violation of this Corn Board Act, and these sections that are in the amendment we're looking at have been designated the Corn Board Act, whatever the specific words are, do you think now with the way this board will be constituted, independent of state government, any violation should be a crime? If a first purchaser does not do what this bill says... [LB354]

SENATOR SCHILZ: Yes. [LB354]

SENATOR CHAMBERS: ...and the way the bill says, should that be a crime? [LB354]

SENATOR SCHILZ: Yes, it should be. [LB354]

SENATOR CHAMBERS: Why should it be a crime? It's a private operation that's involved. [LB354]

SENATOR SCHILZ: Well, I can tell you this, that because of how it has been set up and because of the way it goes, if I pay my--and I grow corn--if I pay my checkoff to that first purchaser, but then that first purchaser does not remit that, we might even be talking about more than just violating the Corn Board... [LB354]

SENATOR CHAMBERS: Okay. [LB354]

SENATOR SCHILZ: ...we might be talking about theft as well. [LB354]

SENATOR CHAMBERS: Okay. Now let's go to you. If you don't pay your checkoff, should that be a crime? [LB354]

SENATOR SCHILZ: Yes. [LB354]

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SENATOR CHAMBERS: Why? [LB354]

SENATOR SCHILZ: Because it's in the law that that is the way it should be. [LB354]

SENATOR CHAMBERS: Thank you. Members of the Legislature, they want to use the criminal power of the state to force somebody to pay a checkoff. Then they're going to talk about it's refundable. You face criminal sanctions if you don't pay that checkoff. It's not voluntary. If something is voluntary, the failure to do it cannot be a crime. Voluntary means you are free to do it or not do it. Do you listen to the nonsense you're being asked to vote on? And you'll vote for it because you've been told by Senator Larson that this helps agriculture, because he can't answer the questions. I am opposed to criminalizing conduct. Not everything that a person does, which somebody else doesn't like, should be criminalized. And as for getting this refund, you have to fill out the papers, and you have to do it within a certain number of days, there are inconveniences established. But when you go right to with the word... [LB354]

SENATOR SMITH: One minute. [LB354]

SENATOR CHAMBERS: ...of the language of the law, we have people who want to say as Senator Johnson did, not in this context, but he doesn't know of any genuine producer, or whatever he said, who wanted to not pay the checkoff or get a refund. Well, if you're going to allow people to do it, why not say if they don't want to pay it, don't pay it in the first place. Why make them pay it and say if you don't pay it, then you are guilty of a crime and you involve the criminal justice system, somebody has to press that charge and in the rural areas it will probably be the county attorney. If the person pleads not guilty, then you have to have a trial. That's what this bill is talking about and we're going to take it step by painful step because I know each time that I speak, I cannot say everything I want to say. Thank you, Mr. President. [LB354]

SENATOR SMITH: Thank you, Senator Chambers. Senator Carlson, you are recognized. [LB354]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I think we're going to be on this bill for a while so I have something, the first part of my testimony here that I'd like to share. I think it was yesterday, Senator Chambers said that two things are certain and I've heard other people say the same thing, and he said, death and taxes. Now I think that there are three things certain. Taxes, death, and a destination after death. Now, we all make a choice and by the truth of the Good Book and accepting by faith what that Good Book tells me, what's offered for me, I know where I'm going. And I know where I'll end up and I just hope that I meet Senator Chambers there. But I also want to refer to his rhyme today and add a couple of verses. And if you haven't looked at his rhyme, take a look at it, but here's a couple more verses for today's legislative rhyme. Jesus said, pray without ceasing, which means there

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should be no end. Christians say, we understand, and this verse we should not bend. Jesus said, love your neighbor as yourself, that is very true. And Christians, sometimes it may be difficult, but it includes Senator Chambers too. And with that I'd like to address Senator Schilz, if he would yield. [LB354]

SENATOR SMITH: Senator Schilz, will you yield? [LB354]

SENATOR SCHILZ: Yes, I would. [LB354]

SENATOR CARLSON: Senator Schilz, let's go look again on page 13 on the refund section because this follows up with Senator Chambers just talked about and this is a little bit like what happens when we pay our taxes or when we don't pay our taxes. If we pay our taxes and then the next year we have a refund, we can apply for that refund and we're going to get it, would you agree? [LB354]

SENATOR SCHILZ: Absolutely. [LB354]

SENATOR CARLSON: Okay. So just the process of this that it becomes clear, first of all, after a person has sold corn, they need to make application in writing to the board and I assume there would be a form that is available that they would use that's not difficult to understand, would that be true? [LB354]

SENATOR SCHILZ: I would guess that's the case, yes. [LB354]

SENATOR CARLSON: Now, they've got to make application in writing for that refund and they need to do it within ninety days after the checkoff has been deducted, and that's...would you agree that that's what the Section 15 says? [LB354]

SENATOR SCHILZ: That is correct. [LB354]

SENATOR CARLSON: They also need to send along with that, proof of the actual corn assessment deduction, which means they actually sold the corn and they had the checkoff deducted, true? [LB354]

SENATOR SCHILZ: Correct. [LB354]

SENATOR CARLSON: Okay. And then once the board receives that, and this is, I think, a pretty good portion of the section, they don't have forever to return that money. [LB354]

SENATOR SCHILZ: That's right. [LB354]

SENATOR CARLSON: The board has thirty days after the date the application for

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refund is received by the board to remit the refund to the grower. And I do think that that's a reasonable length of time. Mr. President, how much time do I have? [LB354]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: 1 minute 45 seconds. [LB354]

SENATOR CARLSON: Twenty-five seconds? [LB354]

SENATOR GLOOR: 1 minute 45 seconds. [LB354]

SENATOR CARLSON: Oh, 1 minute 45. My hearing isn't too good anymore. Let's see. Another thing, Senator Schilz, let's talk about a little bit. I want to get this clear again on the voting procedure. If we have a family farming operation...well, let's say it's an incorporated family farming operation that involves a father and two or three sons and it's a pretty extensive operation, how many can vote? [LB354]

SENATOR SCHILZ: Well, for sure, anybody that is involved in the corporation that is involved in farming can vote as well as any of that corporation's employees would be able to vote as well. [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CARLSON: So, would you say any shareholder would be able to vote? [LB354]

SENATOR SCHILZ: No. [LB354]

SENATOR CARLSON: Because shareholders aren't necessarily active. [LB354]

SENATOR SCHILZ: Absolutely, and that's the point there. Not shareholders but those that are actively involved in the management or the production of growing that corn. [LB354]

SENATOR CARLSON: And assuming that, in this case, we got a father and three sons that are active in the farming of this operation, then we'd have four votes out of that operation. [LB354]

SENATOR SCHILZ: Correct. [LB354]

SENATOR CARLSON: And if they had enough land that they rented a piece of land to somebody else, would the individual renting the land also have a vote? [LB354]

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SENATOR SCHILZ: If they were growing corn, yes, they would. [LB354]

SENATOR CARLSON: Okay. All right. It can get kind of extensive and maybe a little bit difficult to comprehend but I understand why this needs to be all a part of it. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Bloomfield, you're recognized. [LB354]

SENATOR BLOOMFIELD: Thank you, Mr. President. I want to speak a little bit to what Senator Johnson said a little bit ago about refund. Under current law, as I understand it, you cannot apply for a refund. Under the bill and the amendment as proposed, you can. I've had a little experience with checkoffs and refunds in the dairy business, the small producer. The guy that sells five, six thousand bushels of corn a year, he's not going to put up with the hassle to get back fifty or sixty bucks. The large producer, the guy who farms four or five thousand acres and will get back seven or eight thousand dollars, he's the guy that's going to ask for the refund. Who is going to end up financing this? Again, it's going to be the smaller producers. That is one of the reasons my brother wanted me to support this. He wants to be able to get a refund. I've talked to several producers that don't like paying the checkoff. They want to be able to get a refund. And we're told repeatedly that, oh, there will be fewer than one percent ask for that refund. I don't believe that to be an accurate number. The large producers they get back a substantial amount of money, I believe will ask for a substantial refund, and the small guy will be left holding the bag. And that's one of the reasons I don't like this bill. And again, I would yield my time to Senator Chambers. [LB354]

SENATOR GLOOR: Senator Chambers, 3 minutes 10 seconds. [LB354]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask Senator Larson a question or two if he is still on the floor. [LB354]

SENATOR GLOOR: Senator Larson, would you yield? [LB354]

SENATOR LARSON: Yes, I would yield. [LB354]

SENATOR CHAMBERS: Senator Larson, we talked about corn. What does corn mean? What does that term include? [LB354]

SENATOR LARSON: Corn means and includes all varieties of corn marketed or sold as corn by a grower but does not include sweet corn or popcorn. [LB354]

SENATOR CHAMBERS: Now, what other kind of corn besides sweet corn and popcorn are there? Would feed corn be...well, let me...you're the man who knows about farming.

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What other variety... [LB354]

SENATOR LARSON: We don't farm. My family ranches, so. [LB354]

SENATOR CHAMBERS: Well, what other kind of corn is there, in addition to sweet corn and popcorn, which are not included in the word "corn" for any purposes of this bill and the checkoff, apparently? [LB354]

SENATOR LARSON: You might want to ask a specific...somebody that grows corn. I can get you the biological names for all the types of corn and corn that we...regular farmers grow. [LB354]

SENATOR CHAMBERS: Okay. Okay. I'll ask Senator Schilz. [LB354]

SENATOR LARSON: I'm not a corn farmer so I can't... [LB354]

SENATOR CHAMBERS: Okay. Now, I'd like to ask Senator Schilz a question, if I may. [LB354]

SENATOR GLOOR: Senator Schilz, would you yield? [LB354]

SENATOR SCHILZ: I will try, yes. [LB354]

SENATOR CHAMBERS: Senator Schilz, what other types of corn are there besides sweet corn and popcorn? [LB354]

SENATOR SCHILZ: And I'm going to put my neck out here but I think the only one that I am aware of...I'm sure there are other smaller varieties of corn, but the only other one that I'm aware of is field corn and that's the vast majority of corn that's grown in the state of Nebraska. [LB354]

SENATOR CHAMBERS: What's it called? [LB354]

SENATOR SCHILZ: Field corn. [LB354]

SENATOR CHAMBERS: Okay. Is that eaten by human beings? [LB354]

SENATOR SCHILZ: No. [LB354]

SENATOR CHAMBERS: So any corn that's for human consumption is not included in the term "corn" when it appears in this bill, is that correct? [LB354]

SENATOR SCHILZ: That is correct. And I should say, though, I mean... [LB354]

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SENATOR CHAMBERS: So, one second. There is no checkoff required then for the corn that's consumed by human beings? [LB354]

SENATOR SCHILZ: That is correct. [LB354]

SENATOR CHAMBERS: So, the only person who would pay a checkoff is somebody who is growing that field corn, is that correct? [LB354]

SENATOR SCHILZ: Correct. Yes. [LB354]

SENATOR CHAMBERS: That's all I'll ask you at this point. [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CHAMBERS: I think we're going to have fun with this bill and none of my questions are trick. I'm trying to learn. I'd like to ask Senator Bloomfield a question. [LB354]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB354]

SENATOR BLOOMFIELD: Yes. [LB354]

SENATOR CHAMBERS: Senator Bloomfield, would you answer that question? [LB354]

SENATOR BLOOMFIELD: I believe the correct terminology is dent corn. [LB354]

SENATOR CHAMBERS: Is what? [LB354]

SENATOR BLOOMFIELD: Dent corn, d-e-n-t. It's corn that dents as it ripens. [LB354]

SENATOR CHAMBERS: Oh. [LB354]

SENATOR BLOOMFIELD: But, my understanding of this is that we do, in fact, pay that on corn that... [LB354]

SENATOR CHAMBERS: Would you talk in your mike, please. [LB354]

SENATOR BLOOMFIELD: If you eat corn meal, you're eating dent corn. [LB354]

SENATOR CHAMBERS: So that corn would be consumed by human beings in some form. [LB354]

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SENATOR BLOOMFIELD: Yes, it would. Yes, it would. [LB354]

SENATOR CHAMBERS: Thank you. And I believe my time would be up that was given to me, is that correct, Mr. Chair? [LB354]

SENATOR GLOOR: Your time is now up, Senator. Thank you. [LB354]

SENATOR CHAMBERS: Thank you. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schilz, you're recognized. [LB354]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. And I wanted to put this point out there because I think it's important that a while back the Livestock Management Association had a case in front of the Supreme Court and they were talking about checkoffs and what that pertains and what it means and what it is. And it applies to this situation and so indulge me a little bit. I'll just go ahead and read some of my points here to get this into the record. In LMA v. USDA on the federal beef checkoff, the U.S. Supreme Court concluded that commodity promotion is government speech and that government is free to utilize private actors to disseminate speech. The majority opinion found that the government must exercise sufficient control over the source of the message to be deemed ultimately responsible. Second, the main purpose of the message in the program must be identified as the governments. The court found that the test for the federal beef checkoff were satisfied by the fact that Congress had articulated a compelling public interest in facilitating the association of growers for commodity development and that the program goals and methods were dictated by statute. LB354 does not digress from that. We're still articulating the public benefits and the benefits of commodity promotion programs go well beyond merely the economic benefit of producers. The goals and message are articulated in statute and we heard some of those from Senator Carlson. We are merely leaving the day-to-day details to what is basically a public corporation. Additionally, we retain control of the Corn Board in two separate ways. One, the makeup authorities and purposes of the board are controlled by statute. We retain the right to change the board and its authorities or to repeal the board if they do not carry out the state's interest. And we also retain a measure of budgetary control because checkoff collections will first be placed in the state fund administered by the Department of Agriculture before they are expended to the board. The state budget will have a line item to give cash fund authority to the department to expend the funds to the board. The budget process will remain a method by which we can cut off the fund to the board if they do not represent the state interests. And I think that's where some of the confusion is coming in as to whether you want to call this a private entity or whether you want to call this a public corporation or whether you want to call this a quasi-pseudo, whatever, but I think that when you look at this, this is where those ideas are coming from. So we do retain some control but we give

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them the flexibility to move forward and to work on these things. I was talking to folks that were worried and concerned that if we do this and we put this out there that all of a sudden these wages for the employees of the Corn Board would be different than other state agency wages. And I sat and I thought, you know, maybe that needs to be the case. I can tell you this. If you're looking at the difference, and this is a philosophical difference and I thought about this a little bit now, if you're looking at the difference in a promotional organization, or regulatory organization, I mean, whether we like to say it or not, promotions for lack of a better term, a heck of lot sexier than regulations and at times... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR SCHILZ: ...at times, it will require and it will demand higher wages for those that work there. That's just the way the world is. That's just the way it works. And, you know, if the Corn Board is out there and they're trying to make stuff work, and they can't keep their employees on board because they can't maintain the same benefits and the same wages that are going on in other places that are cannibalizing this organization, then that's an issue. We could put all the money in the world that we wanted to into the Corn Board promotion but if we don't have the people to carry it out and the employees to do it, then that truly would be or could be a waste of our money and resources. And that's where I see us diverging here and that's where we need to go to make sure that we do not waste that. [LB354]

SENATOR GLOOR: Time, Senator. [LB354]

SENATOR SCHILZ: Thank you very much. [LB354]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Davis, you are recognized. [LB354]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I just wanted to address a point that Senator Bloomfield made a few minutes ago which I think is certainly pertinent with regard to people asking for refunds on their checkoff. I'm sure that that is exactly what will happen, Senator Bloomfield that the large operators will have the opportunity or they will choose to ask for their refund while the small people will not do that. However, when you give somebody the choice, I think you've taken care of that problem and that's what this bill does which is one of the reasons that I really support it because we are giving someone the choice, if they are not happy, they can ask for their money back. Now, I think your points are well taken but I think we will see strong support for this bill because it is a more open bill, more open policy than what we have today. I do have a few concerns after listening to this debate about the electoral process. I know in the beef checkoff a few years ago there was somewhat challenging issues that were addressed with who is eligible, who is not eligible, and I'd like to see

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that tightened up and strengthened a little bit. But in large part, I think this is a good bill and the body needs to support it. And with that, I'll yield the rest of my time to Senator Larson, if he would like to use it. [LB354]

SENATOR GLOOR: Thank you, Senator Davis. Senator Larson, 3 minutes 40 seconds. [LB354]

SENATOR LARSON: Thank you, Senator Davis and I had my light on but Senator Davis yielded me time and hit on the point that I was going to make in terms of the refund. Senator Bloomfield raises a concern that all the large producers in the state...they're not all, some, the majority of these large producers that can get so much money back are going to ask for the refunds crippling the system. Well, I have two points to that. The first is, Nebraska is either the only or one of two, I think it's one of two, states that have a mandatory checkoff. Every other state has refundability provisions in their corn checkoff. You go through the participation rates in those and it's anywhere between 90 and 98 percent participation of corn farmers in each state. And I'd suspect that in Nebraska being the third or fourth largest corn producing state in the nation, and those farmers understanding how important it is to Nebraska's economy and the vital part that the Corn Board has played so far, that they will invest in the Corn Board because investing in the Corn Board or the Corn Promotion Act is investing in their own future. And they understand that. It's investing in their communities. It's investing in their own, while everything else, because the Corn Promotion Act will help them market their corn and get better returns in their corn in the future. And, you know, I have family that are large corn producers, very large corn producers. They have a lot of area in Senator Janssen's district, they have a lot of area in Senator Schumacher's district, and they have a very large area in my district and they understand what paying this would do. And when I say, large area, I'm talking tens of thousands of acres, massive operation. So, I feel it's unfair that Senator Bloomfield says these large producers are not going to pay the checkoff because they have the most to gain from not paying the checkoff. That's wrong. Nebraska already has one commission that does have a refundability option and it's the Dry Bean Board and right now they have anywhere between a 96 and 98 percent participation rate. [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR LARSON: No matter how big they are, I think that's important because these are...they understand how important supporting something that supports their products is and I think corn farmers...to say that corn farmers won't or the big ones won't, is disingenuous and we need...I have faith in the farmers across the state of Nebraska. Not all of them will pay. They'll pay and some of them will ask for the refund, yes, but I have faith in my constituents and the corn farmers in my district. I have faith in the constituents in Senator Sullivan's district, the constituents in Senator Dubas' district, that they see the benefits to the Nebraska Corn Board and what it gives them in return.

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Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Larson. Senator Johnson, you are recognized. [LB354]

SENATOR JOHNSON: Thank you, Mr. President. Again, I want to comment. Thank you, Senator Bloomfield for your comments and I will comment on where we are at now and the challenges I see ahead of time. We didn't have a refund program, so people would maybe ask once and find out, no, there's no refund so they didn't probably ask again at least to the elevator. The people that were not real involved with agriculture, it might be family that maybe live in Florida now or someplace, and once they get their check from the elevator, they start asking questions because you start out with number two corn, which is a certain test weight and a certain moisture content and lack of default, defects in the kernel. And if you have any high moisture or weight, there's a deduction and as you go down on the deductions, then you see corn checkoff in so many cents or dollars involved there. And you have to kind of explain all of it to them. And they ask if there's a refund on any of that and no, there isn't. So that's kind of where we've been. I think the challenge moving forward, I'm not going to predict how many people will ask for a refund. The challenge will be for those elected members of the board to do their due diligence in making sure that the producers are happy with what they're doing in marketing. The board will probably find out if they have a large percentage of those producers that ask for a refund. They're going to have to go back and visit with their constituents out there and, you know, try and get them on board. So, it's going to be the responsibility of that Corn Board or they will not be reelected. You know, it's kind of like the process we have as far as in the Legislature, so. A question I have...and I think probably ask if Senator Larson would yield to a question. [LB354]

SENATOR GLOOR: Senator Larson, would you yield? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR JOHNSON: Having to do with the board members in the election process, I believe a speaker in the past, a conversation between Senator Schilz and Senator Carlson, as a first purchaser, the elevator, if they make the check out to John Doe Corporation or John Doe Farm, Inc., the check is made out to that entity and, in my feeling, that would be the entity that would have the vote or should have the vote and only one vote, and the corporation needs to decide who is the voter or who is the eligible voter. Now, we have some situations where when the check is written out, they are written out to the three sons and the father that are in that corporation and, thus, they have the responsibility of selling the corn in their own name so they become, I believe, an eligible producer. Can you clarify this process for me? [LB354]

SENATOR LARSON: Yes, and you raise a good question. Iowa lets the actual entities,

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the corporate entities, vote. In our process, it doesn't do that. So, if there's Jerry Johnson, LLC and you and your three sons own it, let's say, and you are all individual citizens of the state, at least eighteen and have engaged in growing corn for the last five years and derive a substantial portion of your income from growing corn, all four of you, even though the check is made out to Jerry Johnson LLC, all four of you will have a vote, not the corporation. And we thought that it was important that individuals were voting instead of corporate entities and that's why we moved in that direction instead of, you know... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR LARSON: ...just everybody within that corporation, because I think, you know, if you have four people that all own 25 percent of the business, they all have a very real concern of what's going to happen with the Corn Promotion Act and they need to...and they should have a say in who is elected and should the referendum then move forward if they try to raise the checkoff. [LB354]

SENATOR JOHNSON: Okay. Thank you. I understand what the...it says now and if that's correct, I've got to weigh in on that a little bit different maybe than what I was thinking before, but thank you. [LB354]

SENATOR GLOOR: Thank you, Senator Johnson and Senator Larson. Senator Bloomfield, you are recognized. [LB354]

SENATOR BLOOMFIELD: Thank you, Mr. President. I am pleased that Senator Larson has faith. We're told that faith will move mountains and I believe that to be the case. It doesn't, however, when it comes to farming, put money in the bank. A check for your refund will do that. Right now the farmers are doing pretty good. They may not need that check real bad. When times start to get a little lean, that check is going to look a lot better. We've seen corn in excess of seven dollars. Lately we've seen it under six. We don't know where it's going. Is it going back to two? If it goes back to two, you think those people aren't going to ask for that seven thousand dollars back? They certainly are. So, it's good to have faith but we ought to also have a dose of reality. And again, I will yield my time to Senator Chambers. [LB354]

SENATOR GLOOR: Senator Chambers, 3 minutes 40 seconds. [LB354]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. And I'm glad people continue discussing. I was given word that my window was down on my car and it was going to rain so I had to scoot over to the parking lot, roll my window up, and make it back in time to rejoin the discussion. And when you're old like I am, you can do that kind of running and come back and continue doing what you're doing, but you youngsters have to be careful that you don't get a heart attack or a blown

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lung. At any rate, I would like to tailgate on what Senator Bloomfield suggested to Senator Larson even though I didn't hear Senator Larson's comments. I know he's a devotee of Ronald Reagan. And one of the things he was famous for saying is, trust, but verify. You don't just go by what people tell you. And what we're being asked to do is to put provisions into the law. Not what Senator Larson wishes they had put into the law, which he could amend into the law if he wants to say, quasi-independent, put it in. But he's not sure what the legal ramifications are because he didn't write this bill. Senator Schilz could put it in, but he's not sure what it meant, what it would mean. But I would like to ask Senator Schilz a question because he's the Chairperson of the Ag Committee and this amendment was fashioned by that committee. [LB354]

SENATOR GLOOR: Senator Schilz, would you yield? [LB354]

SENATOR SCHILZ: Yes, I would. [LB354]

SENATOR CHAMBERS: Senator Schilz, this checkoff is not really voluntary, is it? [LB354]

SENATOR SCHILZ: The checkoff, at first? [LB354]

SENATOR CHAMBERS: Yes. [LB354]

SENATOR SCHILZ: No, the checkoff is required. [LB354]

SENATOR CHAMBERS: Right. So I want people to stop saying, it's voluntary. And you said we have to deal with the world as the world is. Didn't you say words to that effect? [LB354]

SENATOR SCHILZ: I would...okay, I'll take your word for it. I'm not sure. [LB354]

SENATOR CHAMBERS: Yes. I listen to you very carefully and I'll listen to others on the floor so if I say you said it, you said it unless you know that you didn't. Senator Schilz, taking the world as we know it to be, there are a lot of ordinary, what have been called small farmers or even producers or growers who will pay that checkoff and not try to get a refund under the terms laid out in this bill. Would you agree to that? [LB354]

SENATOR SCHILZ: I would...yes, I would agree. [LB354]

SENATOR CHAMBERS: And because of that expectation, that likelihood is probably factored into how much money is going to be available to this Corn Board. Do you agree with that? [LB354]

SENATOR SCHILZ: Yes. [LB354]

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SENATOR CHAMBERS: Thank you. And here's why I do that. They used to have a tax on food and you could get a rebate when you filed for your...filed your state income taxes. But if you didn't have to pay a tax... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CHAMBERS: ...you didn't get the rebate and the state actually counted on people not getting that rebate and it was factored into building the budget. So, there is a pretense here that something voluntary is being done but the bigwigs, the big shots, the big boys have a way of knowing that when you have a multitude, so to speak, of smaller contributors, you're going to get a substantial amount of money, more so than if you had a relatively few big contributors. And they count on those little ones not jumping through the hoops and surmounting the hurdles created by these laws. But I want to focus on, as we continue with this debate, exactly what this entity is and I wish the Governor would veto it. The state is being given duties and responsibilities by something that is not a state agency. [LB354]

SENATOR GLOOR: Time, Senator. [LB354]

SENATOR CHAMBERS: And this is not like NIFA. I'm not aware of NIFA saying that everybody who owns property... [LB354]

SENATOR GLOOR: Time, Senator. [LB354]

SENATOR CHAMBERS: Oh, did you say time? [LB354]

SENATOR GLOOR: Time. [LB354]

SENATOR CHAMBERS: Thank you, Mr. President. [LB354]

SENATOR GLOOR: But Senator Chambers, there are no senators remaining in the queue. You're recognized to close on your amendment to the committee amendment. [LB354]

SENATOR CHAMBERS: Have I spoken all the times that I'm allowed? [LB354]

SENATOR GLOOR: Yes, you are, sir. [LB354]

SENATOR CHAMBERS: I thought so, but I'll find plenty of other opportunities. Members of the Legislature, this should not be done. If they, whoever the "they" are, are upset because the Governor took some money out of a cash fund to use it to help in building a budget, he couldn't just go and do that, you have to get legislation to do that. Is Senator

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Mello here? Well, he's somewhere but not here right now. We, while I was here, had bills enacted to allow money to be taken from various cash funds. There had to be an authorization to do that because the statute had listed what these funds could be used for and among that list were not the Governor's taking it or somebody else taking it for something other than what was specified in the statute. So rather than going through all of this just because Iowa is doing it, why don't you just get legislation that says the Governor may not take this money for whatever purposes you don't like, and then the Legislature would have to pass a bill to prevent...to allow that if that's going to happen, but it would be a majority of the legislators doing it. There is more behind this than just what they call the raid on that money. There are people who want to have this dedicated money not under the control of the state, but they want the state to be the bag person, the collector, the hammer, the muscle, the one who goes to the ordinary citizens and say, give me that money. Senator Schilz and all these...I'm going to leave him out of these, the cliques and the claques. These young conservatives, so-called, talking about reducing the size of government but they want the government to be overbearing when it comes to ordinary farmers. They want the government to be the ones who say, give me this money and if you don't, you're committing a crime, and this money will wind up in the coffers of a private operation spending it the way they see fit. That's what these conservatives do which shows how hypocritical they are. They talk that stuff when it's a program they don't like. But look what they are doing. They want the government's power but they don't want the government oversight. Without the government's power, they know this money would not be paid in. They know these farmers don't voluntarily give this money. And if you think that promoting corn is so essential to the welfare of the entire state, why don't you take the money out of the General Fund? You know you can't get it. This language is fraudulent. It is dishonest and if you vote against my motion, I'm going to prepare a reconsideration because I don't think we've adequately discussed it and we're going to be here all night anyway and tomorrow too. And I've promised that I'd do that and this is the bill for me to prove that I will. Thank you, Mr. President, but I'll ask for a call of the house and a roll call vote. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? Those senators in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB354]

CLERK: 23 ayes, 0 nays to place the house under call. [LB354]

SENATOR GLOOR: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Price, Carlson, Avery, Lathrop, Nordquist and Harr, please return to the Chamber and record your presence. Senator Mello, please record your presence. Senator Lathrop, please return to the Chamber and record your presence. Members, the question is, shall the amendment to the committee amendment

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be adopted? Mr. Clerk, roll call vote, please. [LB354]

CLERK: (Roll call vote taken, Legislative Journal page 1188.) 3 ayes, 23 nays, Mr. President, on the amendment. [LB354]

SENATOR GLOOR: The amendment is not adopted. Raise the call. [LB354]

CLERK: Mr. President, I have a priority motion to reconsider the vote just taken. [LB354]

SENATOR GLOOR: Senator Chambers, you're recognized to open. [LB354]

SENATOR CHAMBERS: Thank you, Mr. President and fellow sufferers, although I'm enjoying myself because I think I'm doing the work of the people by forcing us to discuss an amendment, the contents of which nobody on this floor knows. Senator Schilz acknowledges that there are issues he's not aware of. He has to look it up. You've seen that Senator Larson knows very little about the bill and here's why I don't blame him as much. He's not a member of the committee, the Ag Committee. Maybe he didn't have the time or the inclination to study the amendment which has become his bill. But I'm going to put things into the record so no matter how people windup voting on this floor, it will be clear that they were flying blind and did not know what they were voting for. Now what I could do, since that was a roll call vote, is get that vote count and ask people who voted against my amendment, my motion, to explain parts of this bill, but I'm not going to do that. What I am going to do is now discuss the amendment. The amendment would be found on page 3 and it would strike what Senator Larson described as intent language, but it does not...it's not introduced with the words, "the Legislature finds and declares." Nor the words, "it is the intent of the Legislature." None of that introductory language is a part of this that I'm amending out and I'm going to read the language again and stop on words where I think there should be some discussion. It is the public policy of the state of Nebraska to protect and foster the health, prosperity, and general welfare of its people. I can agree with that. The state and every state has what are called police powers and these powers are exercised to carry out activities that are for the general welfare of the populace. So, stop right there. But then they're going to hitch a broken-down nag to that wagon. You've got attached to this nag, a vehicle that looks like something which former Queen Beatrix, in that country way in the northern part of the world, abdicated her throne so that her son could become the first male king in a hundred years. But the kind of coach that they want to hitch this nag to is one that she could ride in or that Cinderella could have ridden in before midnight occurred. And here is what they want to hitch to that coach. That to achieve this, you form the Corn Board. Now if you ask any citizen, or you ask any ordinary grower of corn, what is the purpose of the Corn Board? They'd say to get that checkoff money and promote corn. They wouldn't talk about the general welfare, public health, prosperity of the state. You think when somebody is out there laboring in a cornfield they're interested whether I, in the city, am making a living? They're interested in their own interest and their interest only.

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And I'd defy anybody to stand on this floor and tell me that it's otherwise. They don't grow corn so somebody else can prosper. You think they're worried about when the price of corn goes down that it's going to somehow hurt people in the city? They don't even give that a thought and we know it. Senator Schilz is going to say, we have to take the world the way that it is. Well, the way this world is in this Legislature today, is that I'm going to do a lot of talking on this bill and other things along the way to show how people, unlike me, will not tell the truth when they bring legislation. It cannot stand on its own footing, so they put in all this stuff about the health and prosperity and general welfare of the state. That's not what we're talking about. We're talking about a checkoff. And when anybody has said they're going to give you history of the corn checkoff, they don't talk about the public welfare. They talk about a point at which this checkoff board had some money in a cash fund and when the state ran into financial difficulty, the Governor persuaded the Legislature to let him go in and take some of that cash fund money like money was being taken from other cash funds in this state. That's what they were concerned about. Senator Wightman knows it. All of you know it if you will tell the truth. That's what the ones who promote this bill said that it's for. Senator Pirsch, they said, that's what it grew out of. Now they're going to sucker you into saying, this is to promote the general welfare and you'll buy it because you voted against my amendment. He thinks it's for the general welfare. It's for his welfare, for Senator Pirsch. When the Ag Committee was drafting this amendment they said, we have to worry about the health, prosperity and general welfare of Senator Pirsch from Omaha, and Senator Scheer from Norfolk. We have to worry about the...you all know, that's not true. But you act like it is. Why cannot you be honest? And that's what I'm trying to do. I'm trying to make an honest bill out of this piece of whatever it is, but you don't want to do that. The public knows that this language is fluff. It has nothing to do with what this bill is talking about. And the problem with the bill really is that it is trying to use the power of the state to compel citizens to give money, to advance a program that they don't like. Senator Lautenbaugh sent a message over here saying, it's a good bill, and he's mad at the bar association because he's got to pay dues to the bar association when it does things he doesn't like. And then he's going to write and say, it's good to use the power of the state to charge somebody with a crime if they don't pay this money. Senator Lautenbaugh will not be charged with a crime if he doesn't pay his bar dues. How many of you all would vote for my amendment, which I'm going to put up there, to strike this criminal sanction? These people who put this bill in front of you did not know it was there. I told them. Then they want to give a rationale and an explanation of why it's there and make as good, and they didn't even know it's there, and I could bring up other things in this bill that they don't know is in the bill, that they don't know are in the bill. At least Senator Karpisek was honest enough to say that there will be things brought up in this bill that he is unaware of. That's honest. There are probably things in the bill I don't know about as much as I've read it. I'm not going to play like I know what's in this bill. And I'm going to show you something else I just let rock along. When they were talking about the requirements of being a candidate that you'd have to get eighty signatures. That's not true. On page 6 of the bill starting in line 13, candidates for election to the

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board may place their names on a candidacy list for the respective district by filing a petition signed by at least fifty--not eighty--fifty growers. It's not my bill. It's not my amendment. The ones whose bill it is said eighty. Do I think they were trying to mislead you? No. I think they had not read the bill carefully and I think they were giving you their best idea of it. But we're talking about putting legislation into the statute and the ones telling you to vote for it don't even know what they're telling you to vote for, and you're voting for it without even knowing what you're voting for. Compared to this, I owe Senator Schumacher an apology for the way I hounded and harried his bill yesterday. Senator Schumacher, I apologize. [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CHAMBERS: But up to that time that was the worst bill I had seen this session. (Laugh) It no longer holds that position. But you got a whole lot of people being suckered on this one because they've been told that it advances agriculture. It helps agriculture. Agriculture, the industry of Nebraska. How do they know it helps agriculture when they don't even know what's in it? And you don't know what's in it. I don't know everything that's in it, but what I do know that's in it is unacceptable. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Conrad, you're recognized. [LB354]

SENATOR CONRAD: Thank you, Mr. President. I'm going to support the motion to reconsider the floor amendment and I'm keeping an open mind as to the committee amendment and underlying legislation, but I am indeed, concerned. I appreciate and agree with proponents that there is or was an underlying issue that they seek to address. It is indeed no secret to any member of this body who lived through the recent and difficult economic downturn that there were painful budgetary decisions that had to be made to ensure our state kept a balanced budget. And if memory served, it was during the course of the special session in relation to the budget wherein the Governor put forward his budgetary proposal during that period which did sweep the cash funds from this...from the Corn Board and other commodities in other cash funds, to be clear in that regard. The Legislature rightly and roundly rejected that attempt as part of our budgetary solution to address the economic crisis. So again, I understand that maybe to use a clever term in the course of this debate, there is a kernel (laugh) of legitimate concern, I think, in regards to this legislation. But I think the solution and the remedy proposed goes too far. I think that there might be some issues related to unlawful delegation. I think that there are questions that I have about the lobbying restrictions and permissions. I have honest and sincere questions in relation to liability and/or immunities that would be afforded to members under this new system, and if those questions were thought out or worked out at the committee level, I'd appreciate members weighing in on that. The other piece that I'm concerned about is just the

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overall general precedent that this legislation sets and I think it's a poor precedent at that. If we were to apply the same logic to any and all cash-funded agencies or nonregulatory agencies, it is indeed, or could be a slippery slope that I would have great concerns about because it would move critical cash funds that support critical state obligations whether it be in Game and Parks, HHS, Corrections, pick an agency, any agency that handles cash funds. We have a structure in place that ensures full accountability and oversight of those as part of the budgetary process and I'm not sure if that same level is really applied in the proposal before us. So, I'm concerned and would like to hear more about liability and immunity questions. I do think that we should strike the criminal penalties. I'm trying to get more specifics about the potential unlawful delegation issues. I definitely have concerns about the slippery slope and the precedent in terms of how we treat other cash-funded agencies. And I do have significant questions relating to the lobby permissions. And to be clear, colleagues, from a budgetary perspective when times were tight, the commodity cash funds were not the only ones subject to utilization to meet budgetary needs. The Legislature's Appropriations Committee and the body as a whole swept significant amount of cash funds from the Affordable Housing Trust Fund. We have from time to time utilized funds from the Commission on Public Advocacy Cash Fund, cash funds from the Healthcare Cash Fund. So, I definitely appreciate and understand that proponents may see those cash funds as distinguishable from the commodity funds, but to be clear, this body has roundly rejected any attempts to raid cash funds... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CONRAD: ...from the commodity boards. Thank you, Mr. President. But has been permissive in raiding cash funds that are meant to support critical human services that are important to our state to meet our budgetary recommendations. So those are some issues that I did want to note on the record and I will be interested to hear proponents response. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Schilz, you're recognized. [LB354]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. We talk about the public interest in checkoffs and things like that, and I'd just like to go down through some of this stuff; and you may agree or disagree with me, but these are some of the things that commodity checkoffs can do. I think it's easy to demonstrate a substantial governmental interest in the producers associating for a purpose of collective commodity development and promotional activities. A more economically robust agricultural economy is less dependent upon subsidies thereby freeing up public resources for other priorities. To me, that sounds like the public interest. Checkoff programs directly benefit the larger public by marshalling resources that would otherwise not be made available for advancing widely held goals such as improved food

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safety, nutritional education and advocacy, and finding renewable alternatives for energy and other consumer and industrial needs. To me, that sounds like the public interest. Through their checkoff dollars, producers have accelerated development of value-added activities that provide new employment opportunities for the general public and which contributed to the tax base supporting governmental services. Checkoff programs can and do also engage in a variety of marketing development strategies in addition to generic advertising and other types of direct promotional campaigns. Checkoff dollars underwrite research investigating new ways to utilize the commodity, to improve the safety, appeal, and utility of food products for consumers, and development of solutions for environmental and production problems facing the industry. Checkoff dollars subsidize some types of certification programs that assist the marketability of commodities, and investment of checkoff funds is used in merchandising activities, particularly in developing relationships with foreign customers. The checkoff makes the benefits marketing assets such as the U.S. Grains Council and the Meat Export Federation as the service of all producers. The alternative is these organizations supported entirely by large agribusinesses. So when we get to the questions of Senator Bloomfield and everybody else, you can take it the other way and you can allow the large producers to take over something like this and do it; or you can have something like a checkoff. And they're all over the place, guys, and they do a good job. It's important that people understand that it does help the common good. It does help the public. And it is our job as the Legislature of the state of Nebraska to recognize that and to recognize what is in the best interest for the folks of the state of Nebraska. Thank you very much, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Chambers, you are recognized. [LB354]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I listened to what Senator Schilz read. I didn't look at him but I know Senator Schilz's voice because I listened to him in Ag Committee and I listened to him on this floor, and I know when he's speaking from his heart. I can't say from experience, so that means since I don't have one, but he has one and he wasn't speaking from his heart. He was reading. I'd hear his breath being caught on words tumbling over each other, which is not Senator Schilz's ordinary calm, cool, collected way of expressing himself. But here's where he's smart. If he has a source that will buttress his argument, he will make use of it. And any school, any academy in the world let's you know that no person knows in his or her head everything that there is to be known about any subject; so you use references. Nothing is wrong with that. But I just want him to know how closely and carefully I listened to him. But I see language in this bill, such as "security for federal price support loans." Now if it's a price support loan, the price being supported is a subsidy for the farmer, not the general public. That's on page 1, line 13. Page 2, line 20, "federal price support loan program." Then...and I couldn't find them all while Senator Schilz was speaking but I knew I had seen them. Then we go to page 10, "a loan under a federal price support

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program or other government agricultural loan." These are not loans that benefit the public. These are not loans when they are given benefit any person other than the one getting the loan. So they can't be honest. They don't have to say that this is for the public's good. It's for the individual farmer groups that came. They knew when the bill was up. They had lobbyists who could come here, because they make their money lobbying. And those who represent the Farm Bureau are always uncomfortable when I point out the fact, because they won't answer the question, that most of their members are nonfarmers and they primarily are advertised as an insurance company. But they carry that farm name, Farmers Life. All these insurance companies and other things will put "farm" in it because they think that there is something to be gained by doing that. The public will feel sympathy. They're helping the farmer. And the insurance company carrying the name "farm," might not be able...might not be available to farmers because they can't afford the premiums. So that name, that term, that idea is appropriated by a lot of entities who have no great concern about farmers. This bill, as pointed out by Senator Bloomfield, had a string of lobbyists and their groups, and that's what you expect. How many of you all think that farmers, just at the drop of hat, could come here and speak on a bill? They count on their representatives in the Legislature to do that and their representatives on this floor, and if I had enough fingers I'd point to all of them. So let me give them nicknames. Dasher, Dancer, Prancer, Vixen, Comet, Cupid, Donner, Blitzen, and Rudolph. And I'd get that because it said... [LB354]

SENATOR GLOOR One minute. [LB354]

SENATOR CHAMBERS ...Santa whistled and shouted and called them by name. They are the ones who say that if the farmers they care about so much violates...if they violate any part of what's in this, they commit a crime. They have a process served on them by the county attorney and they go to court, Senator Wightman. Look at this and see what...if they violate any part of, they will be charged with a crime. And you say, well, it's just a Class III misdemeanor. Well, do you want a Class III misdemeanor? Do you want to have to go to court? No, you don't. But you don't care about the farmers. I talk about being concerned about the downtrodden, and farmers are among that group. And right now, under this bill, they are being trodden down, and I'm going to stop it if I can. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. The Chair recognizes Senator Price. [LB354]

SENATOR PRICE: Thank you, Mr. President and members of the body. In reading the bill, the amendments, the floor amendments, I have a couple of questions. Would Senator Schilz yield to a couple questions? [LB354]

SENATOR GLOOR: Senator Schilz, would you yield? [LB354]

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SENATOR SCHILZ: Yes, I'd be happy to. [LB354]

SENATOR PRICE: Thank you, Senator Schilz. I'm trying to resolve in my mind the penalty of the Class III misdemeanor that is stated at the end of the effort underway, and resolve it against Section 10, which is line 16, page 9, which basically paraphrased it says the five-tenths of a cent for each bushel will be collected from or by the grower at the sale or delivery. If we're telling them that they should collect this at the sale or delivery, how can they be...how can they not pay the checkoff? [LB354]

SENATOR SCHILZ: That's a good point, Senator Price; and that's just it. If I sell my corn to Senator Johnson's elevator, yeah, it basically gets taken out right then. If somebody sells corn to my feedyard, we do the same thing there. We automatically take that out. [LB354]

SENATOR PRICE: So my question is, did we paint with too broad a brush, perhaps, in the language of the bill, by saying that you're going to be guilty of a Class III if you commit this infraction, but you can't commit the infraction? [LB354]

SENATOR SCHILZ: I'm sorry, can you say that again? I apologize. [LB354]

SENATOR PRICE: Well, you say it's a Class III misdemeanor if you don't comply or comport to everything in the act. [LB354]

SENATOR SCHILZ: Um-hum. [LB354]

SENATOR PRICE: So we had a debate. We talked about paying or not paying but you have to pay. I mean, there's no way around it, so I don't know that...we painted it with too broad a brush, maybe. [LB354]

SENATOR SCHILZ: Well, I mean, don't get me wrong, Senator Price; there are (laugh), you know, any time there's rules, there's always somebody that can figure out how to break them. I would say this: When you look at how this was formed in the original bill that was passed in 1978, and I don't mean to take up too much of your time, but really this was put down in there for those first buyers, those first folks that collect the money and then are supposed to remit it to the state. And I think that's where it comes from. [LB354]

SENATOR PRICE: Okay. Well, in dealing with that, I just to get at it, for me it does trip me up a bit, because I wonder, do they charge...if they're...is it a misdemeanor now if you don't pay? [LB354]

SENATOR SCHILZ: Yes. [LB354]

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SENATOR PRICE: Okay, great. And then if you don't mind sticking with me here, I was also interested in what was going on in Section 5 where we talk about the per diem not to exceed a \$100; also to receive reimbursement for actual and necessary expenses in performing official board functions. When I look at my per diem and then my expenses and we have in statute a dollar value, what do we think about inflation over time? Are we going to have to come back to the Legislature and redo that, or can we use a more sophisticated manner in addressing the per diem? [LB354]

SENATOR SCHILZ: Well, as it is right now, stated in there is a hundred bucks. That's what it would be and they would have to come back to the Legislature to do that. If it's the will of the body that they would like to change that to allow that to have some sort of sliding scale or something like that, that could be discussed. [LB354]

SENATOR PRICE: Okay, great. And then finally, just some of the first thoughts I had in listening to the debate. I'm not a farmer, never been a farmer, but I've been to one. But the idea being is that are we trying to quasi-privatize the Corn Board? [LB354]

SENATOR SCHILZ: (Laugh) In the discussion that we had before, here's what we're trying to do: Through the privatization of the board itself, what we've been able to do is we've been able to give them flexibility in their hiring, firing, and benefits and wages practices, as well as giving them other flexibility when it comes to... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR SCHILZ: ...when it comes to how they operate that. It doesn't necessarily give them any more flexibility in how they spend their money. They still have to spend it through the statutes. [LB354]

SENATOR PRICE: Okay. So, and that's...do we do that with any other board, checkoff boards or similar boards? [LB354]

SENATOR SCHILZ: You mean, tell them how to spend the money? [LB354]

SENATOR PRICE: No. Do we do what you are proposing to do with any other boards yet? [LB354]

SENATOR SCHILZ: Not within the state. [LB354]

SENATOR PRICE: Okay. My question comes down to, and I'm going to run out of time here, but my question comes down then is we're going to have the state tell a private board, a quasi-board, what to do. And I'm sure you'll have an opportunity to discuss it more and I'll listen. But again, we're doing something novel here, something new for Nebraska. But you tell me they do this in Iowa, right? [LB354]

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SENATOR SCHILZ: Correct. [LB354]

SENATOR PRICE: All right. Thank you very much. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Price. Senator Larson, you are recognized. [LB354]

SENATOR LARSON: Thank you, Mr. President. And I get up to attempt to address things that have been mentioned in discussion, and the budget and what happened in Appropriations Committee when times were tough and they tried to sweep that cash fund isn't the only reason that the Corn Board wants out of state government, and I think Senator Schilz has hit on it a number of times. This is there in the hopes to provide efficiencies. This is there to give the Corn Board the ability to, and the flexibility, to contract with who they want and not who the state tells them; to contract with who they believe is in the best to provide the functions of the Corn Board and provide the best return on investment for corn farmers. Senator Conrad brought up, is this unlawful delegation? And Senator Schilz read this earlier but I'll read it again. In LMA v. the USDA, which was the federal beef checkoff, the U.S. Supreme Court concluded that commodity promotion is government speech and that government is free to utilize private actors to disseminate speech. The majority Opinion found that the government must exercise sufficient control over the source of the message to be deemed ultimately responsible. Secondly, (cell phone ringing)...secondly, the main purpose of the message and the program must be identified...I'm sorry. The main purpose of the message and the program must be identified as the government's. The court found that the tests for the federal beef checkoff were satisfied by the fact that Congress had articulated a compelling public interest in facilitating the association of growers for the commodity development, and that the program goals and methods were dictated by statute. So I think the U.S. Supreme Court has already laid out that this LB354 isn't an unlawful delegation of powers in LMA v. the USDA. And I think LB354 does not digress from that. We are still articulating the public benefits, and the benefits of commodity promotion programs go well beyond merely the economic benefit of producers. The goals and message are articulated in statute. We are merely leaving the day-to-day details to a public corporation. Additionally, we retain control of the Corn Board in two ways. The makeup authorities and purposes of the board are controlled by statute. We retain the right to change the board and its authorities, or to repeal the board. They do not carry out the state's interests. We will retain a measure of budgetary control, as well, because the checkoff collections will first be placed into a state fund administered by the Department of Agriculture before they are expended to the board. The state budget will have to line item and give cash fund authority to the department to expend the funds to the board. The budget process will remain a method by which we can cut off the fund to the board if they do not represent the state interest. So I hope that can help answer that concern that Senator Conrad had. I think it's a very valid concern and one that I'm glad

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she raised for the record. But hopefully, the U.S. Supreme Court and what I just said, how LB354 does not digress from what the Supreme Court said, answers those questions. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Larson. Senator Davis, you are next in the queue. [LB354]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I just wanted to make a few observations as the member of the Cattlemen's Beef Board, which is a checkoff oversight entity for the beef checkoff. Specifically, I want to kind of address a few of the issues that we're talking about here and how they relate to Nebraska and why these checkoffs are important and why we need to support them and why I think this is a good bill. I think Senator Chambers and a lot of people think this is totally a self-interest thing. Well, the things that the beef checkoff has done, and a number of those things which have been designed to increase demand for the product, but one of the things we've done is we've done a lot of research on E. coli; we've done a lot of research of listeria; we've done a lot of research on salmonella. And those things are good for public health and good for our product. That's one of the things that comes out of the beef checkoff. It's made up of people who are very dedicated to the process, work really hard at it, sit on those committees, participate in webinars, work to promote and protect the industry. So it's a good thing and Nebraska needs to support it. Now why does Nebraska need to support these checkoff programs? Well, if you go back into the '70s when these projects were put in place, you're going to find the products, corn and all the commodity products, were very low in price. And what that does to the state of Nebraska is you end up with sort of an impoverished class in the west while you've got the cities growing a little richer. You know, one of the things that we've seen happen in the last ten years is an increase in commodity prices, which has really benefited the western part of the state. You see that in increased land values, and we just had this debate about TEEOSA a few days ago with unequalized districts out west because of land values. Well, that's because of high commodity prices. And like it or not, part of that is due to the checkoff. So, you know, let's recognize the good things that come out of the checkoff. What I'd like to say about this bill is this is a liberalizing and a modernizing of the corn checkoff plan that is in place today. And so the refundability aspect of that is one of the things that I think makes it such a saleable bill and why we all, I think, need to support it. I also wanted to say something. I know Senator Chambers and I think Senator Conrad referred to the lobbyists maybe that were there. Well, you know, every time we go...every time we have a bill before a committee, there is a group there lobbying for something. And, you know, when the Medicaid bill was there, we saw the Hospital Association there, because they had something to gain from it. You know, lobbyists aren't evil per se. You know, they do good. Those organizations that came to testify on this bill did so because they thought this was a good plan for the corn checkoff. So with that said, I would strongly urge you to vote this reconsider motion out and move the bill forward. Thank you. [LB354]

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SENATOR GLOOR: Thank you, Senator Davis. Senator Chambers, you are recognized. [LB354]

SENATOR CHAMBERS: Mr. President, again I must serve as the polygraph. Senator Davis and others are talking about all the great things that have been done through these checkoff programs, checking on E. coli, safety for consumers. You know why that is? Because the FDA said you had better do it or we'll shut you down. What about the egg plants in Iowa? They didn't do that on their own. It was the FDA. What about water quality? EPA. And what do we hear the farmers saying? There is too much regulation. We want the FDA to stop doing this. We want the EPA to stop doing this. We don't want anybody checking on these genetically modified crops because we might can grow more of them and make more money, and we don't want you requiring us to put on labels that these crops that you people are eating in the city have been genetically modified. These farmers are not trying to help us; they're trying to help themselves. And now they have a problem because while some of them are in favor of the genetically modified crops, they cannot stop those seeds and the ones who pollinate from going into crops of farmers who don't want anything to do with genetically modified crops. Once you mess with Mother Nature, you find out you can't fool Mother Nature. You can try but she'll make a fool out of you, and that's what's happening. Then we have the DEQ, which they don't like here because there's too much regulation. So on the one hand the things that the farming community is compelled to do, they'll take credit for it even though they fought against doing it tooth and nail, so I'm not going to let them get away with saying that's why they have these checkoffs. That's not why. And if it's great...I'd like to ask Senator Davis a question or two. [LB354]

SENATOR GLOOR: Senator Davis, would you yield? [LB354]

SENATOR DAVIS: Yes, I will. [LB354]

SENATOR CHAMBERS: Senator Davis, what other checkoffs are there that you're aware of, just off the top of your head? [LB354]

SENATOR DAVIS: There is the wheat checkoff, the mushroom checkoff. I believe there's a checkoff for citrus,... [LB354]

SENATOR CHAMBERS: That's good enough. [LB354]

SENATOR DAVIS: ...peanuts. [LB354]

SENATOR CHAMBERS: If I offer an amendment to put them all in this bill and have them live by the same rule that's so good here for corn, would you support that amendment? [LB354]

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SENATOR DAVIS: No, I would not, Senator Chambers. [LB354]

SENATOR CHAMBERS: That's all I need. Thank you. It's not good for everybody. And as for the lobbyists, somebody for the bill mentioned all the people who came to speak for it. That's why I got on it. Somebody said, look at all the ones who came to speak for it. I know what lobbyists can do and we all know, and we know I said that they're paid to do that and it gives them a chance to make some money, more or less honestly, so they don't have to go rob banks and break into ATM machines and hook them up behind their cars and do things that other nonlobbyists do because they can't get to be lobbyists. But when you make any violation of this thing a crime, read what is mandated when a special referendum occurs. Read the time lines, the necessity of announcing this election in a newspaper. And if that is not done, that's a crime. They don't make all these things crimes in ordinary sane society. But when it comes to this stuff, it can be a crime because that part hadn't even been analyzed or thought about. And remember: At the time, it was a crime, even though I don't like those crimes. We were talking about a state agency. People violating the rules and statutory requirements that a state agency is to carry out. And the way the state enforces its will is through its coercive power, and that coercive power... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CHAMBERS: ...is found by and large in the criminal justice system. When you take it out from under the state, you are not entitled to use the coercive power of the state to carry out your private will. And I am going to offer an amendment to strike that criminal sanction from this bill. And people who supported the bill never brought it up, never said it should be there. They didn't even know it was there. But I called it to their attention because I did not believe at that time, and I don't believe now, that they knowingly and intentionally included that language because they thought that all the farm people involved in this checkoff program should have their conduct criminalized if they violate any aspect of it. It doesn't even say knowingly and intentionally. You just do it and it's a crime because the statute says it's a crime. That makes no sense. [LB354]

SENATOR GLOOR Time, Senator. [LB354]

SENATOR CHAMBERS Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Price, you are recognized. Senator Bloomfield, you are recognized. [LB354]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Johnson a question if he'd yield. [LB354]

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SENATOR GLOOR: Senator Johnson, would you yield? [LB354]

SENATOR JOHNSON: Yes. [LB354]

SENATOR BLOOMFIELD: Thank you, Senator Johnson. You mentioned in an earlier conversation maybe some out-of-state owners. Do you deal with some of those people that maybe live outside of the state yet sell corn here through their producer? [LB354]

SENATOR JOHNSON: Well, if they are an active producer involved in the process and they might live in another state and they get a check for the corn and pay the checkoff, yes, we do deal with them. [LB354]

SENATOR BLOOMFIELD: Is the 90 days that I believe is allowed here, is that enough time for all that correspondence to go back and forth, do you think? [LB354]

SENATOR JOHNSON: I would say maybe the risk of it would be not knowing ahead of time. I think if they know right away, there's ample time. But somehow that needs to be publicized that there is a refund so they can start. Because, you know, they might not hear about it and...or think about it or hear about it until it's too late, and then there isn't enough time at all. [LB354]

SENATOR BLOOMFIELD: This is something that I didn't bring up during committee and you may not have the answer. If not, I will ask Senator Schilz. If the producer sells the corn for the owner, can the producer request the owner's refund? [LB354]

SENATOR JOHNSON: I think it would...I doubt whether the producer...unless they have power of attorney, probably. They might have power of attorney to sell the corn. Then I believe they would probably have power of attorney to ask for the refund. I don't know if that's... [LB354]

SENATOR BLOOMFIELD: I would doubt they would have that power (inaudible). [LB354]

SENATOR JOHNSON: I doubt whether they have that either. [LB354]

SENATOR BLOOMFIELD: But okay, thank you. [LB354]

SENATOR JOHNSON: You bet. [LB354]

SENATOR BLOOMFIELD: Is Senator Schilz available for a question or two? [LB354]

SENATOR GLOOR: Senator Schilz, would you yield? [LB354]

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SENATOR SCHILZ: Yes. [LB354]

SENATOR BLOOMFIELD: Senator Schilz, did you hear that last question? [LB354]

SENATOR SCHILZ: Yes, I did. [LB354]

SENATOR BLOOMFIELD: What are your feelings on that? [LB354]

SENATOR SCHILZ: I would agree and concur with Senator Johnson that it has to be the person that would own that to request it back. The person that actually sold it and did that would have to be the one that gets that back. [LB354]

SENATOR BLOOMFIELD: Okay. I'm going to go with a little more legal stuff here that...and I'm not a lawyer and I've never played one and I haven't stayed at a Holiday Inn in quite awhile, but if I as a producer sold that corn and requested the checkoff and did not forward it to the owner, how much trouble am I in? [LB354]

SENATOR SCHILZ: I bet you wouldn't get your lease back. But in my mind, I would guess that then that would not fall underneath this bill, but that would follow underneath...and then once again, I'm like you, I'm not a lawyer and there's others in here that could probably answer this better. But I think that falls outside of the Corn Promotion Act, and that would just be a simple theft. [LB354]

SENATOR BLOOMFIELD: Okay, thank you. The 90 days, do you think that's a long enough period for the correspondence to take place back and forth, or is the elevator operator obligated to contact the owner in Oregon or wherever he may be to let him know that there is possibly a refund available? [LB354]

SENATOR SCHILZ: It's up to the person that grows the corn to understand, you know, the business that they're in and what the rules and what goes on there. So I don't necessarily think that it would be up to the co-op owner or the elevator to advise somebody of that. [LB354]

SENATOR BLOOMFIELD: Okay, thank you. And that's all, Senator Schilz. [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR BLOOMFIELD: Thank you. Again I'm going to go back to the producers asking for the refund. I talked to a number of people in my district, and while Senator Larson seems confident that the number would be very small that would ask for the refund, the number percentage that I ran to is between 70 and 80 percent of anybody that farms over 1,000 acres would ask for the refund. And if Senator Chambers would like a little time, I'd yield to him. [LB354]

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SENATOR GLOOR: Twenty-three seconds, Senator. [LB354]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. I accept that time in the spirit in which it was given. [LB354]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Chambers. Senator Schumacher, you are recognized. [LB354]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the Legislature. Do you ever get one of those letters from a little third-grader where you absolutely agree what he means but everything is in lower case and run together with no punctuation and you know it's really well-meaning but it sure would be in need of a lot of work before you put your name and called it your work? I just spent the last hour and a half actually reading this thing. I understand what I think they're trying to do, even though I'm not quite sure; so I must have 16 pages of questions. Senator Larson, since you're the lucky guy that introduced this, would you yield to some questions? [LB354]

SENATOR GLOOR: Senator Larson, would you yield? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR SCHUMACHER: Thank you, Senator Larson. First of all, let's go to page 1, line 10. Can you explain to me, because I find it real confusing, where it starts out and it says delivered means receiving. I went to the dictionary and the dictionary tells me is delivering is when you take something and give it to somebody else; and receiving means when somebody else...or when you get it from somebody else. So how can delivery mean receiving? [LB354]

SENATOR LARSON: This is...as Senator Schilz talked about, this is kind of that first purchaser stuff. "Delivered or delivery means receiving corn for any use." Essentially what we're laying out... [LB354]

SENATOR SCHUMACHER: How can out mean in? [LB354]

SENATOR LARSON: What? [LB354]

SENATOR SCHUMACHER: How can out mean in? Because it says delivery means receiving. [LB354]

SENATOR LARSON: We're explaining the definitions as they go through the bill essentially. We're laying out as in page 1, delivery essentially... [LB354]

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SENATOR SCHUMACHER: Why don't you say delivery means delivery? How can "I'm putting something out" mean "I'm taking something in?" [LB354]

SENATOR LARSON: You're...the first purchaser is taking it in. [LB354]

SENATOR SCHUMACHER: Let's (inaudible) talk about... [LB354]

SENATOR LARSON: So as the corn producer is delivering, they're receiving. [LB354]

SENATOR SCHUMACHER: Senator Larson, though, this doesn't talk about first purchaser. It just creates a definition that is in conflict with plain English: delivering means receiving. That's not what the dictionary says. So how can delivery mean receiving? [LB354]

SENATOR LARSON: As I said, when that's delivered they are receiving it. [LB354]

SENATOR SCHUMACHER: Okay. Then let's go on... [LB354]

SENATOR LARSON: The first (inaudible). [LB354]

SENATOR SCHUMACHER: Let's go on, continuing down, line 17. "A first purchaser means an individual, a public or private corporation." Keeping in context that being naughty under this thing can get you in jail, how do you put a public corporation, assumably a town or an SID or something like that, in jail or subject them to criminal penalties? [LB354]

SENATOR LARSON: Well, obviously, you can't put a public or a...you mean, a public corporation? [LB354]

SENATOR SCHUMACHER: It says a public corporation. I take that to mean... [LB354]

SENATOR LARSON: I would take that to mean ConAgra as a public corporation, because they're the...they're a publicly owned corporation. [LB354]

SENATOR SCHUMACHER: So you're...in all places in here where it says public, you mean publicly owned, a private corporation? [LB354]

SENATOR LARSON: Is how I would initially take that bill, a public corporation or a private corporation, i.e., you're either a publicly owned or a privately owned corporation. [LB354]

SENATOR SCHUMACHER: This doesn't say publicly owned or privately owned. ConAgra is a private corporation. ConAgra is a publicly owned corporation, but the city

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of Lincoln is a public corporation. So how can I put Lincoln in jail? [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR LARSON: You can't put Lincoln in jail, Senator. [LB354]

SENATOR SCHUMACHER: Okay, thank you. Let's go on then to...pick and choose here a little bit. We're running out of time probably. Page 2, at line 16, "Marketed in this state means a sale of corn to a first purchaser who is a resident of or doing business in this state when the actual delivery of the corn occurs in this state." Now, if I'm going to sell you a truckload of corn and I give you a bill of sale in this state, I deliver you the corn by the bill of sale, did that bill of sale...was that corn delivered in this state? [LB354]

SENATOR LARSON: The way that I understand it, I didn't quite follow your question, but I think so. [LB354]

SENATOR SCHUMACHER: I've got a truckload... [LB354]

SENATOR LARSON: I can't...if you could speak into the mike. [LB354]

SENATOR SCHUMACHER: Excuse me. Excuse me. I give you a bill of sale to a truckload of corn. We do it right here in the city of Lincoln. Was that actual delivery of the corn, did that occur in this state? [LB354]

SENATOR LARSON: Yes. Since the first purchase is happening inside the state of Nebraska. [LB354]

SENATOR GLOOR: Time, Senators. [LB354]

SENATOR SCHUMACHER: Thank you. [LB354]

SENATOR GLOOR: Thank you, Senator Schumacher, Senator Larson. Senator Chambers, you are the only member in the queue and this would be your last time, Senator. So would you like to close? Senator Schumacher has also asked to be recognized. We will move to Senator Schumacher. [LB354]

SENATOR CHAMBERS: I didn't understand him. Turn on the mike so I can ask the Speaker what he told me. Mr. President, what did you tell me? You said it's my last time to speak and it's to close? [LB354]

SENATOR GLOOR: Yes, I did. But Senator Schumacher then punched in, Senator. So Senator Schumacher is recognized. Senator Schumacher, you are recognized. [LB354]

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SENATOR SCHUMACHER: You know, it pains me to ask these questions on the mike, because I know that they're not very well-developed probably in question or in answer. But we are making legislative history. And to the extent somebody has got to read this sometime, maybe, we have to know what is in the introducer and the body's mind when we pass this. So I have no alternative but to do this on the record, because it's not in the paper. Senator Larson, would you yield to some more questions? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR SCHUMACHER: Okay, Senator Larson, we've established that when I give you the bill of sale to a truckload of corn in the city of Lincoln, it is actual delivery of the corn in the state of Nebraska, even if the corn would be in Oklahoma, because I delivered the bill of sale here. [LB354]

SENATOR LARSON: Did I...I understood that you were delivering the corn here. [LB354]

SENATOR SCHUMACHER: I said I am delivering the bill of sale, so it's not where the bill of sale is delivered but where the corn is delivered? [LB354]

SENATOR LARSON: And you're on page 2, line 16, correct, is where you are (inaudible)? [LB354]

SENATOR SCHUMACHER: Right. Line 18, actually. [LB354]

SENATOR LARSON: Line 18. [LB354]

SENATOR SCHUMACHER: When the actual delivery of the corn occurs in this state. You can deliver things by a bill of sale, you can deliver them by pulling up a truck and dumping them. [LB354]

SENATOR LARSON: So yes, the way that...and most of this...and we found the definition of...your first question. A lot of this in the...I mean, this is language taken from the current statute. [LB354]

SENATOR SCHUMACHER: Don't care. We're passing it now. [LB354]

SENATOR LARSON: Well, it's already been passed in 1978, so we copied this language. So even if...to say that you're questioning this now, if this doesn't pass, this language is already in our statute. [LB354]

SENATOR SCHUMACHER: Well, it's all underlined here in the text, and we're the ones voting on it. Okay. So it's not where the bill of sale is delivered; it's where the truck is

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unloaded. Is that correct? [LB354]

SENATOR LARSON: I understand it that when the actual delivery of the corn appears in the "state or any pledge, mortgage, or other encumbrance of the corn as a security for the federal price support" act. So to me, reading line 18, it's either the actual delivery of the corn in this state or any pledge, mortgage, or other encumbrance. And if the bill of sale qualifies, then the pledge or other encumbrance, I'd say it's either one. [LB354]

SENATOR SCHUMACHER: So then I go get my granary in Iowa and drive it to this state and deliver it here, this...to a first purchaser, I've got to collect this fee. [LB354]

SENATOR LARSON: Yes. And when they... [LB354]

SENATOR SCHUMACHER: And Senator Larson... [LB354]

SENATOR LARSON: ...when somebody takes it to Iowa, they'd pay it in Iowa. [LB354]

SENATOR SCHUMACHER: Senator Larson, when I deliver it to this state and I put that excise tax on it, how is it not that I am impeding interstate commerce? [LB354]

SENATOR LARSON: How is it...when you bring it to Nebraska, how is it that you're not impeding interstate commerce? [LB354]

SENATOR SCHUMACHER: Right. I cannot...the state of Nebraska cannot put an import tax on things from out of state. [LB354]

SENATOR LARSON: Well, I can double-check on that for you if you'd like. It's my understanding, like I said, any corn that's delivered to Iowa, they have the first purchaser... [LB354]

SENATOR SCHUMACHER: Let's just move on a little bit here, and again reading at line...or page 3, line 5, "the Corn Development, Utilization, and Marketing Board created pursuant to the Nebraska Corn Resources Act, and as such existed immediately prior to the operation of the act," so that board "is hereby designated as a body politic and corporate and shall be an independent instrumentality exercising essential public functions to be known as the Nebraska Corn Promotion Board." So this Corn Development, Utilization, and Marketing Board shall be known as the Nebraska Corn Promotion Board. When you say it's designated as a body politic, are you creating a government at that point? [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR LARSON: Am I creating a government? [LB354]

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SENATOR SCHUMACHER: Yes, a public body. [LB354]

SENATOR LARSON: Obviously we're creating the Corn Board that is elected by the corn growers. So if you want to call that a government body, I think it...we...it's no different than the NIFA Board that was created. [LB354]

SENATOR SCHUMACHER: Thank you, Senator Larson. I'm going to run out of time here. But now we have a public body. Public bodies are subject to one man, one vote. Don't know if that's squared in here and no reason to do it. Public bodies are subject to elections collected by election officials, not Department of Agriculture officials. Public bodies have responsibility for dissemination of public records and maintenances and meetings pursuant to the Open Meetings Act. Don't know if that's what's in here. It appears it would probably be, since it's a body politic. At prices, there's a reference to a board, and sometimes that board means the board of this corn outfit, and sometimes the board means the board of... [LB354]

SENATOR GLOOR: Time, Senators. [LB354]

SENATOR SCHUMACHER: Thank you. [LB354]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Bloomfield, you're recognized. [LB354]

SENATOR BLOOMFIELD: Mr. President, I would yield my time to Senator Chambers. [LB354]

SENATOR GLOOR: Senator Chambers; 4 minutes 55 seconds, Senator. [LB354]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. And to the young people up there, things happen here; and sometimes even old people, you know, get a little owly. So if I caused any of you all grief by my outburst, I apologize to the young people; but I don't apologize to any of the old people. Members of the Legislature, what we're dealing with here is an excise tax, and I wonder why people with the Revenue Committee don't get involved. You look...and I'm not going to ask Senator...I'm glad that Senator Schumacher tried to ask some questions to this man who says he graduated from George Washington University. Now on page 9, this bill says, "State assessment means a state excise tax." T-a-x. Then when we go to page 9, the Legislature, which it's empowered to do, there is a state assessment of five-tenths cent per bushel of corn. The state is setting that excise tax at a half cent. And I want Senator Johnson to pay attention too, because he looks like he might be dozing. I'm just kidding. Maybe he is. Then here's what we do, which is not done anywhere. Do you know how you increase this excise tax? Who increases the taxes here? The state does.

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If it's going to let a city do it, they do it by way of a vote. Do you know how this tax is increased? On page 11, line 14, "Any increase in the state assessment," which is an excise tax "imposed by section 10," which is that half cent imposed by the Legislature, "must be approved by a majority of growers voting in a special referendum." When has a tax in Nebraska ever been raised by a vote of a private organization and only a majority of those voting? If you have 25 voting and 15 vote yes, then you raise an excise tax and then the state is going to collect it? You all are sitting here like knots on a log; then you get upset when I say you don't pay attention, that you're not using your brains. You know better than this. You show me any tax in this state where you can have 15 people vote and it raises the tax, and then the state collects that tax, then ultimately turns it over to that private entity. Do...you all don't understand why I get upset. I've tried to be patient. I've read this. You won't read it. Well, it's in the record, and I hope the Governor vetoes it if you're foolish enough to pass it. And it would take a fool, f-o-o-l, to pass this. Make a liar out of me. Make me a fool. Listen how loud I'm talking. Wouldn't it be great to bring me down to earth by just showing me any place in the statute where the members of a private operation can vote to raise an excise tax; increase an excise tax, which is set in the first instance by the Legislature. Then a private group can do it. If you say a private group can do it, that is an unconstitutional delegation of the taxing power of the state. I ought to let you go on and pass this trash and let it go to court and the judges would tell you how foolish you are, if the Governor didn't save you from yourselves. And there are other things in here just as bad. But I thought... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CHAMBERS: ...by trying to reason, it wouldn't be necessary to drop this cannonball on you. But you're not going to read it. Senator Schumacher read it, then made the mistake of trying to ask questions of Senator Larson, who hasn't read it and doesn't understand it; and I'll say he doesn't understand it. He ought to just say, I don't know. But when he's going to stand up here and stumble and fumble and try to get this into the law books, it's my job to stop it. And you all are with him, and I will stop it. And if I have to tie up the rest of the session, I will. I don't want to look like a jackass, and that's what I would be if I vote for something like this. Next time I get a chance to talk...I don't see Senator Hadley, but I'm going to ask somebody who ought to know something about an excise tax that can be increased by a vote...three people. If five vote and three of them vote to increase the excise tax,... [LB354]

SENATOR GLOOR: Time, Senator. [LB354]

SENATOR CHAMBERS: ...it's increased. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Larson, you are recognized. [LB354]

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SENATOR LARSON: Thank you, Mr. President. And I thought I'd stand up on the mike and clear something up. Senator Chambers insinuated that the corn farmer...or the producers can raise it whenever they want. And he's preached to all of you that you haven't read the bill and I haven't and none of us understand it or know what's going on. And I think that if he had really read it, we are putting it at a half cent to start. Correct. But the Legislature is setting a cap inside this bill at 1 cent per bushel. So essentially he's saying that we're giving the corn farmers across the state, willy-nilly, they can go as high as they want. But he didn't mention that we, the Legislature, are setting a cap at the maximum of what this can go to. It can only go to 1 cent, and after that they have to come back to us; so we as the Legislature are giving them the authority to only go so high. They don't get to choose how high. They can't go to 2, 3. They have to come back to us. We have that authority. I don't know if Senator Chambers didn't get that far down or if he didn't see that we've given them the authority to go to 1 cent. We set it at a half cent and we say that they can't come back...they can't attempt to raise it, I should say. They can't hold a vote of corn farmers for three years. And if they do, they can only go to 1 cent. He's right, if only three people participate in the election, true, it means the excise tax would go up. Very right. But we as a Legislature are giving them that authority. Senator Chambers, you know, said that the courts will strike this down. I disagree. We have an informal Opinion. He might not agree with Attorney Jon Bruning's Opinion. I have it right here. Informal Opinion No. 13005; and I'll read the end. Based on the above analysis, and I can hand this out to everybody if they want, LB354 should withstand constitutional scrutiny. As simple as that. It is constitutional. The Attorney General believes it is. Senator Chambers can disagree with the Attorney General. We all have that right. But we take these opinions at our Attorney General's Office very seriously. So he can huff and puff and say the courts will strike it down because it's a piece of trash; I disagree. This is important. We aren't giving them willy-nilly ability to raise it as high as they want. We as a Legislature are setting the maximum of what that excise tax can be, and that's 1 cent. We are setting it at a half cent now; they can't vote to raise it for three years. If it goes to 1 cent and they want to raise it later on, they have to come back to this...a different...it won't be this Legislature, obviously. I probably won't be here. Senator Chambers has two extra years after me. He might be here when they...if they try to go over a cent. But it's still the prerogative of the Legislature to go over a cent, and we are giving them that authority if we pass LB354 to go to a cent. It's just up to those corn farmers when they do it. But we are giving them the authority. Thank you, Mr. President. [LB354]

SENATOR GLOOR: Thank you, Senator Larson. Senator Bloomfield, you're recognized. This is your third time, Senator. [LB354]

SENATOR BLOOMFIELD: Thank you, Mr. President. Again I would yield to Senator Chambers. [LB354]

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SENATOR GLOOR: Senator Chambers, 4 minutes 55 seconds. [LB354]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. I'd like to ask Senator Larson a question. [LB354]

SENATOR GLOOR: Senator Larson, would you yield? [LB354]

SENATOR LARSON: Yes. [LB354]

SENATOR CHAMBERS: Senator Larson, how did you describe that Opinion of the Attorney General? What kind of an Opinion is it? [LB354]

SENATOR LARSON: It's an informal Opinion. [LB354]

SENATOR CHAMBERS: It's a what? [LB354]

SENATOR LARSON: Informal Opinion. [LB354]

SENATOR CHAMBERS: Then that's not an Attorney General's Opinion. Informal. That means it's like a letter... [LB354]

SENATOR LARSON: It wasn't printed into the record. [LB354]

SENATOR CHAMBERS: Thank you. If he wants to see an Attorney General's Opinion, there is a book in the library over there that shows you an Attorney General's Opinion. When they give an informal Opinion, that means they have not done all the research they need to do, and this is off the cuff and you take it for what it's worth. But I have gone against formal Opinions by Attorneys General; and as a result of that, you all have expenses that you can collect. The Attorney General is even a poor lawyer. Now, the Legislature is guilty or culpable for unconstitutionally delegating its authority when it passes a law authorizing somebody to do something. The fact that the Legislature passes a law saying you can do this does not make it constitutional. There are certain things that only the Legislature can do and it cannot give that authority to somebody else constitutionally, even if it says so. When you talk about how taxes are to be levied, how they are to be increased in this state, talk to people that you have some confidence in and ask them, when has a private entity been given authority by the Legislature to raise an increase in excise tax? This is no longer even a state agency. When you have a state agency, you can delegate them certain powers as long as you give them adequate direction and limitations on the discretion they can exercise. They are like water boys and handmaidens who are carrying out the defined will of the Legislature. You could not constitutionally give Woodmen of the World insurance company or any other private entity the power to levy a tax. You can pass a law that says that and it would be struck down by the court. Now I don't know what Senator Larson took at

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whatever that school is that he graduated from, but he couldn't even understand the difference between delivering and receiving. The postman delivers the mail. The citizen receives it. Deceiving doesn't mean...delivering does not mean receiving. He couldn't understand the sense of the question. He can't distinguish between yes and no. Why do I say this? Because he demonstrates it on the floor. And if he would get the transcripts of these debates, he would see just how he sounds. I stand by what I say. If you pass this, you are saying that this is an independent entity which is not a state agency. And you mean to tell me that because the Legislature says that this independent nonstate agency... [LB354]

SENATOR GLOOR: One minute. [LB354]

SENATOR CHAMBERS: ...can increase an excise tax, therefore it can do it? He is now your legal counsel on the floor of the Legislature? Follow him out of the wilderness into the swamp. You can't even rely on him to tell you what these words written in English mean. He goes along telling you, well, it...we still have oversight. Well, the question is, there's...is there a difference between delivering and receiving? Well, what it means is that if you sell this corn, then you've got to pay this excise tax if you're the such-and-such, and won't answer the question. Because I don't think now he understands the question. I thought at first he was obfuscating. I thought he was deliberately being disingenuous. But when somebody doesn't understand the question, it's like me asking... [LB354]

SENATOR GLOOR: Time, Senator. [LB354]

SENATOR CHAMBERS: You said time? [LB354]

SENATOR GLOOR: Time. [LB354]

SENATOR CHAMBERS: Thank you. [LB354]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schumacher, you are recognized; and this is your third time, Senator Schumacher. [LB354]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I support the idea behind this. We need to market corn. We need to market it effectively and we need to provide for a private mechanism for the organization of some trade association or some other thing. And I am more than willing to work with Senator Schilz and Senator Larson to try to see if this language can be reformed to do that. I am still very confused as to whether or not this is a private trade association that we are dealing with here or whether the words mean what they seem to mean and that is we are setting up a government body. I just ran on the Web page all the time "body politic" and words like the words that are used in this particular body appear in our statutes; and all

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through them it appears. But they appear when you are creating some government organization: a town, an SID, an interlocal joint body, any kind of things where it is government. Once you make it government, then you've got all kinds of silly rules you've got to comply with: one man, one vote; secret ballot; all those things where the constitution and the rules set up government stuff. And it looks government stuff-ish because we have the State Treasurer holding the money and making the transfers; the state Department of Agriculture conducting the elections--I'm not sure why the Secretary of State got beat out there, but nevertheless the Department of Agriculture conducting the elections; we have the State Auditor coming in and auditing books. So it looks government. And if it is government, then this should be written as though it is government according to the rules of government not to conflict with all the other rules we've got in those big red books. So I think this bill is an articulation of intent, an articulation of what is hoped to happen, an articulation of a good idea. But the words don't necessarily put that into action in a straightforward way. And like I said, I will be happy to work with Senators Larson and Schilz to see if we can iron out some of these things, some of the issues which I think we've stumbled on one, for sure, about the impediment of interstate commerce by the assessment of a fee on corn coming into this state. If that's not intended, then we need to clean it up and say exactly what is intended. Do we mean that for this money that is in our State Auditor's and State Treasurer's hands to be used for lobbying the Congress, to be used for federal lobbying activities, our own state money? Who's going to make the decision as to who to lobby and how to lobby? Some work needs to be done. A good idea. Hopefully, we've got time to finish it up and either between Select File...and now and Select File, or if we take that venture. But we need to address it before we rubber-stamp our seal of approval, I think, at least, on this language. So I'm certainly willing to work with the folks and see if we can make it better. Thank you. [LB354]

SENATOR GLOOR: Thank you, Senator Schumacher. Mr. Clerk, items for the record. [LB354]

CLERK: Yes, Mr. President. Thank you. New resolution, LR168, by Senator Davis. That resolution will be laid over and considered another time. Amendments to be printed: Senator Hadley to LB23A; Senator Dubas to LB545; Senator Sullivan, LB410; and Senator Carlson to LB354. I have a name add. Senator Cook would like to add her name to LB507. (Legislative Journal pages 1189-1190.) [LR168 LB23A LB545 LB410 LB354 LB507]

And I do have a priority motion, Mr. President. Senator Price would move to adjourn the body until Wednesday, May 1, at 9:00 a.m.

SENATOR GLOOR: Members, you've heard the motion to adjourn until Wednesday morning at 9 a.m. Those in favor say aye. Those opposed say nay. We stand adjourned.