

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

Floor Debate  
February 22, 2007

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[LB83 LB106 LB124 LB145 LB223 LB286 LB356 LB364 LB374 LB441A LB441 LB456  
LB470 LB476 LR35 LR36 LR37]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning and welcome to the George W. Norris Legislative Chamber for the thirty-third day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Chris Langemeier. Would you all please rise? []

SENATOR LANGEMEIER: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Langemeier. I call to order the thirty-third day of the One Hundredth Legislature, First Session. Senators, please record your presence by roll call. Please record, Mr. Clerk. []

ASSISTANT CLERK: There is a quorum present, Mr. President. []

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Any corrections for the Journal? []

ASSISTANT CLERK: I have no corrections this morning. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

ASSISTANT CLERK: One item: an announcement that the Health Committee will have an Executive Session at 9:15 in Room 2022; that's the Health Committee in 2022, 9:15. []

PRESIDENT SHEEHY: Thank you. We will move to the first item under General File. []

ASSISTANT CLERK: Mr. President, the first bill, LB145, offered by Senator McDonald. (Read title.) The bill was read for the first time on January 8, referred to the Revenue Committee. That committee reports the bill to General File with committee amendments attached. (AM55, Legislative Journal page 442.) [LB145]

PRESIDENT SHEEHY: Thank you. Senator McDonald, you're recognized to open on LB145. [LB145]

SENATOR McDONALD: Thank you, Mr. President. Today is the McDonald division. I don't know if many of the new senators understand how we did it last year. If your name was on top of the file and you were the first one up, and it's been the McDonald division for a week and we've not ever got to it. So we named...Kermit Brashear named the division after the person that had the first bill up. And so this is the McDonald division.

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Not only do I have the first bill, I have the third bill. So it's my day. Mr. Speaker and members, LB145 requires county assessors to mail homestead exemption notices to property owners who applied for and received a homestead exemption in the preceding tax year. I introduced this legislation after the daughter of one of my elder constituents contacted me last fall. Her father is 92 and still lives on his own in his own hometown, in a small town in my district. He's able to continue living happily in his home with the help of caregivers who tend to his personal needs. His daughter lives in Iowa, but she takes care of his financial affairs. In the past, her father received a notice in the mail when it was time to renew his homestead exemption. In late summer, his daughter realized that he had not received a notice in 2006. She called the county assessor, who told her that they were no longer mailing out homestead exemption notices. According to the assessor, a notice was published in the local paper for several weeks. My elderly constituent is partially blind and he doesn't take the local weekly newspaper. And many of our elder constituents in our rural Nebraska areas do not take the paper, not only because maybe they can't afford them, but sometimes their eyesight is not that good and so they can't read them so they don't get them. Unfortunately, by the time his daughter called the assessor's office, her father had missed the June 30 deadline and the July 20 extension deadline for filing his homestead exemption application. Her father had to pay the full \$600 in property taxes, and \$600 is a tremendous hardship for this 92-year-old man on a limited income. This story led me to wonder how many other elderly or disabled people live in counties that do not mail a homestead exemption notice. How many others missed the deadlines and ended up paying property taxes on a limited income? We don't really have a way to identify that, but we could find out how many county assessors handle homestead exemption notices. Last month, the Property Tax Administrator sent out a simple survey to all county assessors; 77 assessors responded. The survey asked how the counties notified applicants of the homestead exemption deadlines. Of the 77 counties who responded, at least 8 provided notification only through advertising either in print or in a combination of print and radio. Many counties mail the preprinted form or a postcard and also advertise, post notices in their offices and in senior centers, and make follow-up phone calls. The state provides all the necessary information to each county in January. They even provide the preprinted form that many assessors mail out. The homestead exemption information already provided to each county by the department contains all the information required by LB145, except the list of documents and the county assessor's office address and phone number. We determined that the mailing date needs to be earlier so the committee amendment changes the date of the mailing to on or before April 1. The Legislature has created and funded homestead exemptions to benefit the elderly and disabled and make it easier for them to remain in their homes. Unfortunately, in at least eight counties, the elderly and disabled may miss this opportunity to take advantage of the homestead exemption simply because they don't take the local paper. We can change that by passing LB145 this session. I urge you to support the committee amendment and advance LB145 to Select File. Thank you. [LB145]

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PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the opening to LB145. Senator Janssen, you're recognized to open on the committee amendment. [LB145]

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. The committee amendments practically rewrites the bill, but makes only four changes from the concept that Senator McDonald has introduced. The first one is the date of the notice that the applications are due would be changed from June 1 to April 1. The second item of the amendment would allow the assessor to eliminate notices for anyone who has already applied for that year or anyone the assessor has reason to believe no longer qualifies. This screening would not be required but would be allowed. The third item, they would eliminate the requirement that the notice contain the legal description of the land and the amount of homestead exemption that was received in the prior year. This information is not necessary to provide notice that the application is due and eliminating this information allows the assessor to mail a postcard notice. Many, in fact, do that now. Many do mail a postcard as a reminder currently. Finally, the committee amendments inserts language requiring the Department of Revenue to send the same information to each county that it is voluntarily sending now. That is the extent of the committee amendments. Thank you. [LB145]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the opening on the committee amendment. The floor is now open for discussion. Senator McDonald. [LB145]

SENATOR McDONALD: Yes, I encourage you to support that committee amendment because it does change the date and that's what we needed to do after it was discussed in committee. And so the amendment is a good amendment. And so I encourage you also to support that and then pass the bill. Thank you. [LB145]

PRESIDENT SHEEHY: Thank you. Further discussion on the committee amendment to LB145? Seeing none, Senator Janssen, you're recognized to close. [LB145]

SENATOR JANSSEN: Thank you. Only to say that it is fairly simple. The committee amendments do make a few changes, but they needed to be done with Senator McDonald's consent. With that, I ask for the passage of the committee amendments. Thank you. [LB145]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the closing to the committee amendment. The question before the body is, shall the committee amendment be adopted to LB145? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB145]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of the committee amendments,

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Mr. President. [LB145]

PRESIDENT SHEEHY: Committee amendment is adopted. We'll now move back to the floor discussion on LB145. Senator McDonald, you're recognized to close on LB145. [LB145]

SENATOR McDONALD: Thank you for supporting that amendment and I think that we can move this on to Select File with your vote. Thank you. [LB145]

PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the closing to LB145. The question before the body is, shall LB145 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB145]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB145]

PRESIDENT SHEEHY: LB145 advances. Next item, Mr. Clerk? [LB145]

ASSISTANT CLERK: Mr. President, LB83, introduced by Senator Synowiecki. (Read title.) The bill was read for the first time on January 5, referred to the Judiciary Committee. That committee reports the bill to General File. There are no committee amendments. [LB83]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Synowiecki, you're recognized to open on LB83. [LB83]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor, members of the Legislature. I bring to you LB83. It's a bill to change provisions relating to Nebraska's Work Ethic Camp at McCook, Nebraska. This bill was heard by the Judiciary Committee on January 25. It was advanced unanimously by all members of the committee. The Department of Correctional Services were a proponent and offered proponent testimony relative to the bill. There were no opponent testimony. And the probation association...Probation Administration, I should say, testified in a neutral capacity on the initiative. LB83 would expand the offender participation at the Work Ethic Camp, which is currently limited to those sentenced to intensive supervision probation. LB83 expands the scope of the Work Ethic Camp to act as a transitional phase prior to release on parole. Since its inception in 2001, the state's incarceration work camp has unfortunately been consistently underutilized. As of the date of this bill that was introduced to the Judiciary Committee on January 25, 61 individuals were participating in the programming at the Work Ethic Camp. The Department of Correctional Services reports that the camp could easily house up to 125 people at current staffing levels. The Work Ethic Camp is a seven-day-a-week, 24-hour-a-day residential operation. The

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underutilization of the camp dramatically increases the cost per offender and, perhaps more importantly, does not provide taxpayers with appropriate outcomes. Although the camp may be hovering at around 50 percent capacity, they do not and cannot proportionately decrease the amount of staff on duty or proportionately decrease the cost of utilities to run the camp. This makes a significant difference in the cost analysis of the Work Ethic Camp. I believe the lack of probation utilization presents an opportunity for the State Parole Board and offenders transitioning from a correctional institution. The Work Ethic Camp will give the Parole Board another means to meet the needs of their offenders. In addition, I believe that the Parole Board will be more likely to parole an offender if the board is assured that the offender will receive a needed intensive period of structured services and programming immediately prior to release on parole. Furthermore, in 2003 the Legislature passed LB46, the Community Corrections Act. Under that act, probationers and parolees are to concurrently share programs, services, and facilities. I believe that it is now logical that the Work Ethic Camp evolve toward a community corrections asset in our state. Members, in the last...we received these pamphlets from the Department of Correctional Services and it has included within it the capacity or the number of offenders participating in each of the facilities run by the Department of Correctional Services. And by way of an update to my opening, I would draw your attention to the last one of these pamphlets you received which indicated that on February 14, 2007, there were 59 offenders, 59 offenders at the Work Ethic Camp. Members, there are 72 employees at the Work Ethic Camp. We had 72 employees staffing a facility that had 59 offenders. I don't think that makes a whole lot of sense relative to the continuation of the camp. If we are going to continue to run this facility, let's maximize the outcomes, let's maximize the number of offenders that can be exposed to the programming and can be exposed to the benefits that the Work Ethic Camp has available. I don't think we could continue to tolerate, in good conscience, for the taxpayers of this state to continue to run a facility that has 20-something more employees than offenders at the facility. I'd ask for your support of the bill. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. (Visitors introduced.) You've heard the opening to LB83. The floor is now open for discussion. We have Senator Chambers, followed by Senator Ashford, and Senator Christensen. Senator Chambers. [LB83]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Karpisek, I'm burned up this morning. This is the second boondoggle by former Governor Ben Nelson. The first one was when he put all of that monstrosity together and called it Health and Human Services Systems. I opposed that. I opposed this camp. Nelson was trying to line up support around the country and he wanted to put the prison, which now is in Tecumseh, out way in the western part of the state. And I was opposed to it because it's too far from where most of the inmates are going to come. I pointed out that without family and the other support systems that inmates need, that would be the worst

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decision that could be made. And Nelson fought to get it, but he failed because the site selection committee understood. So in order to give that part of the state something, they created this so-called Work Ethic Camp. They couldn't build another prison. It was a boondoggle then, it's a boondoggle now, and when you have more employees than you have inmates it shows you what a boondoggle is. And I'm going to tell you what ought to happen. We ought to close that camp. It's not doing now what it was billed to be doing and it will not ever do that. It never has. And instead of trying to salvage it, we ought to take the decision to do away with something which ought never to have been brought into being in the first place. This is an opportunity to cut state spending, to do away with waste. How many of you are going to be able to go back home after all that campaigning about what you're going to do and tell your constituents, I supported a work camp that has 20 more employees than it has inmates? How do you justify that? I'm not upset with Senator Synowiecki. He is trying to bring a clean thing out of an unclean thing. He is trying to fashion a silk purse from a sow's ear. There was no hearing to close the work camp so I'm not going to try, by way of an amendment, to get that done. I voted to bring this bill out here. I wanted us to have this discussion and I want you all to listen very carefully to what Senator Synowiecki is suggesting, but think deeply about what is being done here. I was asked to give a deposition last Friday in an antitrust lawsuit class action against the National Collegiate Athletic Association. It's being brought by a number of athletes because of the way that association has tied up college athletics, will impose unreasonable rules, bullies, schools, and universities and so forth. One of the questions put to me was whether or not I have expertise in economics. I didn't ask him what does he mean by that. What is expertise in economics? Doesn't mean a thing. Somebody said if you lined all of the economists end to end, they couldn't reach a conclusion. And I add to that, but if they did reach a conclusion, it would be wrong. So it doesn't take a lot of expertise to speculate in the way that they do. But when they really study and they crunch those numbers, they can come up with some statements and advice that might be usable. But one principle that was stated--and I don't know if it was by an economist--but you don't send good money after bad. Bad money was spent on this... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: ...boondoggle in the first place. It never should have been spent. This came into being by way of a bill numbered LB882 in 1997. There was one vote against it. I was the one who voted against it. But who pays attention to me? So a future Legislature is told, salvage this albatross, breathe life into this carcass and throw some more state money after that which should not have been there. I'm going to listen in rapt attention to the ensuing discussion. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Ashford. [LB83]

SENATOR ASHFORD: Thank you, Mr. President, members. And I would rise to support

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the advancement of the bill. We did hear the bill in committee, there was no opposition. I understand Senator Chambers' points. I recall back in the nineties when I was here and we...I worked with Senator Chambers, Senator McFarland, and we passed the first community corrections bill. It took a while for it to get going, but I think the spirit of that bill is reflected in what Senator Synowiecki is proposing, the idea of bringing parolees out into the community in this intermediate step. I can't argue the cost issue that Senator Chambers is suggesting because it is a very real cost. When I left the Legislature in 1994, I believe there were 2,200 people incarcerated in the state. There are now 4,400. I recall the budget for Corrections in those times was around \$120 million, maybe somewhat less. It's now approaching \$400 million. (Laugh) It's about the same cost as the University of Nebraska system. So something is not right, (laugh) I can tell you that. And the idea behind community corrections at the time we brought that bill to the Legislature, that concept to the Legislature, which was modeled after the Colorado community corrections bill, the idea, the vision was to stem what we thought was an unacceptable tide of corrections, inmate increases to the point where, as I said, at that point, 2,200 people incarcerated. We can continue to pay for incarceration or we can think of ways to get these people back into the community as quickly as possible. And Senator Chambers is exactly right because I remember the debate on the new prison and I remember the argument was if you build that prison, we're going to have to fill that prison, and we did it. And it was...and there have been articles written that I've read and we've all read about the whole industry of building prisons across the country. People have made a considerable amount of money in this business building prisons; architects, construction companies. It's an amazing industry that has built up over the last 20 years. I just am sorry that in the early nineties we didn't put more teeth in the community corrections bill, more funding. If we had put a couple hundred thousand dollars in that bill in '92, '93, we may not be here today. But I think we put \$25,000 (laugh) in the bill just to get it started to pay for the cost of an administrator in the Department of Corrections and that's all we could do. Sometimes we need to invest money, we need to do things differently. Just to be consistent is not the same thing as being right, and I think it's time to be right. It's time to start continuing along the road that Senator Synowiecki has talked about, the road to community corrections. Otherwise we're going to be sitting here ten years from now--I won't be sitting here from ten years from now--and the budget will be a billion dollars for Corrections, there's just no question about it. And that's money that we could be spending on education, clearly, and other things. So let's move this bill across. I understand what Senator Chambers is getting at, but let's move this bill across and get behind the idea of community corrections in a real way in this state. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Christensen, followed by Senator Wightman, and Senator Chambers, and others. Senator Christensen. [LB83]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'd like to address you from supporting this bill. I've got a couple of letters here I want to read to you from people

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that have been in the work camp and to the benefits of it. And you know, here it says September 2, 2003. This is a Papillion individual, says, you sent my son to four years in ISP and four months in the work camp in McCook for felony drug charge. I want to thank you for saving his life. You had the choice of sending him to prison or to the work camp and I believe you made the decision to save his life. I can only imagine what job is, is like seeing the dreads of society day after day who accept absolutely no responsibility for their action. But drugs had taken over this guy's life and the person we knew had disappeared. It was similar to losing a child through death, as I know we were grieving the loss of our child, the easygoing kid with the big smile and even bigger heart. We really felt he was on a fast track to an end, either through violence related to drug world he lived in or through overdose, and would not have surprised us to receive the news. I believe that if you sent him to State Penitentiary he would have been lost. I can't say enough good things about the program at the Work Ethic Camp. First, by having to be there for at least four months with no outside contact for the first 30 days, it gave him a chance to shake the drug habit. For somebody so deep in drugs, especially meth, a 30-day treatment plan wouldn't have been long enough. And also for those young people, it keeps them away from their former friends for four months. By the time they get out, those friends have moved on since, if they were into drugs, four months is like an eternity. The counselling he received at the Work Ethic Camp, as well as practical education in getting a job, managing money, and all the boot camp atmosphere of a lot of physical exercise, sleep, fresh air, hard work, all served to show him there was another world out there that he had forgotten about that he could live in. He left the work camp on January 12, 2004. He has been drug- and alcohol-free now for over nine months, five of those out of the prison. He has a job, goes to meetings, is working hard, is saving money for a car, and doing well. The biggest thing I noticed are the small things, things like he is very content to be at home, he smiles, he does chores without being told twice, he's learning to be responsible for himself. He is content not to spend his paycheck before he gets it and learning to live by a budget. I realize that we have to keep taking life one day at a time and this could change at any time. He may make the choice to choose again. But if he does, this is his choice and he will have to suffer the consequences. By now, he is doing what he needs to turn his life around. I thank you. I have another one here. I just want to write you a quick note, thanking you, let you all know how I am doing. This is coming from him himself. Since coming home August 6, I have found a job. I do landscaping... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHRISTENSEN: ...and I've been there for a month and a half. My probation officer lined me up with this job and things are going good. I'm clean, I love my work, and I've been keeping busy. I've been going around doing a lots of concerts, some country ones and with my grandparents, see a couple of people at meetings that were in the work camp with me. Anyway, I get out from the house. Just to abbreviate, you know, I have read a lot of these letters, have been to the work camp. I've been to some



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of their meetings. It's got capacity of 100, we're utilizing 59 beds as of February 12. I can tell you they're out working, cleaning up highways, they're in towns cleaning up limbs and projects after the ice storms. They're used to clean the streets. But I've read letter after letter how they've said, you know, I've now learned how to work, how to hold a job... [LB83]

PRESIDENT SHEEHY: Time, Senator. [LB83]

SENATOR CHRISTENSEN: ...and we need to utilize it. Thank you. [LB83]

PRESIDENT SHEEHY: (Doctor of the day introduced.) Senator Wightman. [LB83]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I rise in support of LB83. I've heard the figures, that 82 employees, I think was the figure that are necessary to supervise 59 inmates or campers or whatever we call the people that are located in the Work Ethic Camp. Serving as a member of the Appropriations Committee, that's a problem, but I think you would find that maybe there are other agencies within the state government that have similar ratios. But at any rate, I do think it's necessary that we try to make it more efficient. I guess you can always second-guess whether it should have been, the Work Ethic Camp, should have been created in the first place and whether it's serving the purpose. But it does seem to be serving a purpose and certainly Senator Christensen's letter indicates it's been a major step in lives as far as turning those lives around. And so I think that it probably was good to be in outstate Nebraska. Maybe it was a compromise with regard to the placement of the penitentiary. But at any rate, I don't think that the ratio is so alarming that we ought to consider closing down the camp, nor is that the issue before this body at this time. I think that many people who have been convicted of lesser felonies and are serving time in the penitentiary could use a place where there would be a more orderly transition in their life. And of course, that's the purpose of the work camp, either as an alternative to incarceration or, in this situation--which Senator Synowiecki proposes in his bill--that it would be a transition. And I think this is extremely important to eliminating or at least reducing recidivism with regard to people that are in our penal complexes. So I do think it gives...it broadens the scope of it. It would allow us to use it and utilize it more fully for the purposes for which it was intended. I think that it would be helpful to a lot of parolees if they were given this in-between step between incarceration and being a member of the public again. So I think we will get the most out of our dollars by broadening the scope of this Work Ethic Camp. And I would urge your support of Senator Synowiecki's bill, LB83. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Chambers, followed by Senator Fulton, and Senator Carlson. Senator Chambers. [LB83]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I am delighted to

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listen to these erstwhile conservatives talk about how great a boondoggle is. Now Senator Christensen got people working for nothing, cleaning up the streets, picking up trash, picking up limbs, cleaning away snow. But he's for it because it serves his district. At another time, if we talk about additional food stamps to feed poor people, he's going to stand up and say, by God, we can't have that expenditure of this money, I'm a fiscal conservative and I'm agin it. But in his district, where he can get free labor and they have more employees than they have inmates, he's for it. Senator Wightman, he might be expelled...not expelled, suspended from the culture corner for a small period of time to teach him to pay attention to what he says in light of what his philosophy is. I'm going to see how many of those western Nebraskans stand up here and talk about how great it is to keep some boondoggle like this going. And it was not a compromise. The prison was not placed out there and I fought it. And I pointed out how these white people talk about, we want these prisons because they'll give jobs to the people there, but they don't want people who are not prisoners who are black to come live out there. They want them as cash cows and to provide employment for their people. And that's why they want this boondoggle now. It was not a compromise, Senator Wightman. The Governor could not get that prison where he wanted it so he told the people out there, I'm going to give you something, and he put this work camp out there. There are too many people who forget. And when I'm not here, you're not going to have anybody who can point out how these things developed or who will take issue on the floor with this flip-flopping by these erstwhile conservatives when it benefits their district to be a big liberal spender of public money. Then they're for it. And I'm going to mark well what they do. This is a Legislature. Somebody said there's a fine line between doing the people's business and giving the people the business. This is giving the people the business, isn't it? Isn't it? Did you hear any of them from out there complain about the fact that all this taxpayer money is spent to hire more employees than they have people to serve? No, because it was going where he wanted it to go. That's why I say Legislatures are full of hypocrisy and hypocrites. They talk that stuff as long as it's somebody else's ox being gored. And it's why I will speak up for people wherever they are in this state and they are being mistreated. And I will speak against the big powerful ones who put their foot on anybody, whoever those big powerful ones are. Right now you got a publisher of the World-Herald in Omaha, John Gottschalk, and the Governor working together and they're going to order the Education Committee to send the superintendents' bill to this floor in its original form. And you all are going to start getting phone calls from them and I'm going to see if that committee knuckles under. What they ought to do is show their independence and kill that bill, because it's not coming out here. But they dare not, because Gottschalk, Bell, and Heineman are now in cahoots. But I'll stand against them. Nobody can call me "boy" and get away with it. But for the purpose of making my point, I will be like the little boy who put his finger in that hole... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: ...in the dike in Holland to stop that leak from becoming a

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flood. And I will stand if nobody else will. And I'm going to watch how much disrespect can be shown to this Legislature. They walk all over you. They have contempt for you and they show it and they put it in the newspaper. They call you all bonehead in the newspaper. Lobbyists, who are going to come before you or committee, will refer to some of you all as boneheads. They won't call me that because it's fear; not respect, fear. I'm going to put my light on one more time. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Fulton. [LB83]

SENATOR FULTON: Thank you, Mr. President. I am thankful to Senator Chambers for bringing up the history of this Work Ethic Camp. I did not know that. New senator, wasn't paying attention at that time. I was probably in school at that time. But I'm looking at the...I went to the web site to check this out. And I understand the numbers and so I want to share some numbers with people. The rationale of the motivations behind the founding of this Work Ethic Camp, it's worthy of debate. But from a very pragmatic standpoint and as an Appropriations member, I recognize this is money now being spent. And so it's important that we quantify the numbers that are being spent here. On the web site, I read that the cost per admission per year at the Work Ethic Camp is \$16,578. I asked Senator Synowiecki if he knew what that same price, what the congruent price or what the accompanying price at the state pen would be, and he said it's somewhere around \$26,000 per year. So just from the math standpoint, if we can accomplish the same end spending less amount of money, we ought to spend the lesser amount of money. And I think that's what Senator Synowiecki's bill is designed to do, to encourage that we utilize this facility most appropriately. Now that there are only 53 participants in the Work Ethic Camp is problematic, but I'm presently trying to determine whether or not that \$16,578 per year is based on the number of occupants there now or is that based upon full occupancy? Because if it's based upon the number of occupants that are there now, we could actually take that \$16,000 per year and reduce it by increasing the number of occupancy. So I'm going to get to the bottom of that hopefully shortly and share that with you. But as it stands right now, just on paper, the numbers, this seems to make sense. If we can accomplish the same rehabilitative and formative end as we objectively want to accomplish in the State Penitentiary by utilizing the Work Ethic Camp, then on paper it makes sense. And therefore, I would support Senator Synowiecki's bill. So I'm going to find some more information. I'll yield the remainder of my time to the Chair. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Fulton. We have Senator Carlson, followed by Senator Christensen, and Senator Chambers. Senator Carlson. [LB83]

SENATOR CARLSON: (Microphone malfunction)...President, members of the body, it's the white boy from south-central Nebraska speaking up this morning, conservative. And you know, at my age if somebody calls me a boy, that's a compliment so I don't mind that at all. I'd like to address Senator Synowiecki for a question. [LB83]

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PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB83]

SENATOR SYNOWIECKI: Yes. [LB83]

SENATOR CARLSON: I would like you to explain the fiscal note on this bill, if you would. [LB83]

SENATOR SYNOWIECKI: Well, that's a great question, Senator Carlson. Evidently, as I'm reading it, there's a \$4,000 expenditure for some type of training that the...particularly the probation employees would have to go through. I'm not understanding why that is, quite frankly. In my days as a probation officer, I routinely supervised individuals that were coming out of our state penal complex and were convicted felons and so forth. They are saying that they need some increased training dollars to deal with a higher level of offender that would come through the system under LB83. You know, I don't know about that. Probation does receive some court fee money for training. I don't know, in fact, whether this is absolutely necessary. And I don't want to take all your time. I'll punch my light on and give you some time. Maybe perhaps I can editorialize a little bit in the sense that the reason why we're here today, Senator Carlson, and the reason why there's 59 individuals out there, I think you need to keep in mind it's Probation Administration is the gatekeeper to who goes out to the Work Ethic Camp. And while we're hovering around perhaps less than 50 percent capacity as a direct result of what I would characterize as not operating wisely, and then they give me a \$4,000 fiscal note for increased training. So I have a lot of difficulty with it, quite frankly. Thank you. [LB83]

SENATOR CARLSON: Okay. Well, you look at the fiscal note and you look at 59 inmates, current inmates, and I don't know if it was 72 or 82 staff. And then you look at the average cost being \$16,000-some dollars. That can't add up with what's out there. So it's hard to understand the fiscal impact of this. I think in our prison system there's nothing wrong and I think it's really important to try and have some kind of a program where inmates can earn their keep, regardless of what that might be, as long as it's legal. And an effort long term should be to try and approach a way of somehow being more cost-neutral. I would hope that, in our system, that we could work it in such a way that we encourage inmates to learn something positive during incarceration to help them to have an intense desire not to return to prison and, secondly, to have a real desire to contribute something positive to society when they are released. And with that in mind, I'll listen to the rest of the testimony. But whatever we can do in that regard in a fiscally sensible manner, I would like to support. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Christensen. [LB83]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, this camp here and

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put more people in there is for the benefit of society as a whole. What this camp does is give people a new chance and opportunity. You know, and supporting this bill to allow more people to spend their last four months or longer there to learn work tools is a benefit. Think about the benefit to society if people come out of there because they have learned how to work, they have learned how they can hold a job, how to spend their money, be able to budget, things that we should have learned in school and some miss. It is a big benefit. You know, I've read all kinds of letters from attending their meetings there at the Work Ethic Camp and reading letters even other constituents have handed me. This is not about whether it's in western Nebraska or eastern Nebraska. This is about changing lives, getting them off the cost of the taxpayer, and making a difference. Any time you can teach an individual a trade and allow them to be able to have their own life, the less expense we're going to have taking care of them in jail. We got to support this bill so that we can better utilize the camp, change more lives. Because too many times people get released from jail and they turn around and they end up right back there. I wish I had the statistics of the benefit that has been of the people coming out of this camp because I think it would just be a closed case on this. We need to utilize the camp fuller, we need to utilize the benefits that this camp has done. So again, I'm going to ask you to support this bill because we need to get the camp utilized for the inmates so they have an opportunity to be able to better their lives. Remember this is about improving lives, taking them off the tax rolls, and making them better citizens. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Chambers, followed by Senator Wightman. Senator Chambers. [LB83]

SENATOR CHAMBERS: Mr. President, members of the Legislature, when Senator Carlson was speaking, I thought he had become the invisible man because nobody was standing at his mike but I heard his voice. Then I looked over at Senator Ashford's position, I saw Senator Carlson. So he kind of threw me a curve. But let me tell you all this thing about the boy thing. No black man wants to be called "boy" and no black young man wants to be called "boy." If you saw the movie To Sir, with Love, which was about some English children, and a black man, Sidney Poitier, was their teacher, there was a scene in the gym class. There was a heavysset kid whom the gym instructor was going to make jump over one of those vaults. The leg broke, the child fell. And the teacher was not showing the proper consideration. And one of these thuggish white boys came over and said, don't say this to Potsy, or whatever his name was. So...and I said "boy" on purpose. The gym teacher looked at him and said, boy, get out of my face. And he said, I am not a boy. And he was white. When that word is used as a term of derision, it's different. Harry Belafonte sang a song and he was being chased by the sheriff and the hound dogs. But this is what he said: "I ain't a man to be played with; I ain't nobody's toy; I been working for my pay for a long, long time; how come he still calls me boy? I whopped that man, darlin' Cora; he fell down where he stood; it may have been wrong, darlin' Cora; but Lord, it sure felt good." That's what being called

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"boy" can result in. People need some acculturation. Senator Carlson did not call me a boy, he said he doesn't mind being called one. But that shows the difference in our status in this society. Senator Christensen got one letter, read one letter and that's supposed to convert everybody on this floor. Suppose he got one letter that told him when you look at the cost of incarcerating somebody as opposed to the cost of educating, are you willing to give more money to the university and do some preventing instead of curing? I bet he won't support an increase in the appropriation for the university, but I'm going to watch and see. I'm still hearing from western Nebraska that good money ought to be sent after bad. And if you send it, I'm not going to have heartburn. I just use these opportunities to point out how people's so-called principles are very fluid and flexible, and today they don't look anything like what they supposedly were yesterday. And every time I get that opportunity, I'm going to point it out. It might teach some of my colleagues to stop being so hidebound, rigid, doctrinaire, and "ideologish." You know what an ideologue is and I don't know if there is a word "ideologish," but if there wasn't, there is one now. I want people to be aware of the fact that I know what words I'm using. Senator Synowiecki is coming up with a proposal designed to address a genuine problem. But you know where the key is to all of this? The Board of Parole. What is the Board of Parole going to do in terms of making decisions? Will there be favoritism shown? Will everybody similarly situated have an equal opportunity to participate in this transitional activity? I certainly hope so. [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: But if this is done, there is going to have to be a great amount of scrutiny and oversight. And I may have to put an amendment or a motion or two on Senator Synowiecki's bill so that I can continue my discussion. But I'm not going to try to kill it or stop it, but I want some things clearly in the record, especially on the part of my colleagues who are willing to spend money to hire more employees than they have people that are being dealt with. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. (Visitors introduced.) Senator Wightman, followed by Senator Wallman, and Senator Fulton. Senator Wightman. [LB83]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. First of all, I would like to thank Senator Chambers for his help in assisting me with what my labelling ought to be here in this Legislature. I've struggled with that. I didn't think I was an ultraconservative. I hardly thought I was a wild-eyed liberal. I kind of settled at that point on flaming moderate. And now I find out I'm an erstwhile conservative. So that's been helpful to me this morning. (Laughter) With that in mind, I still do want to indicate my support for LB83. I think that sometimes you get down...maybe it can be argued that this is not cost-effective. I think when you get down to the penal complex, the Department of Corrections, it's probably, if you look at it from a dollar and cent, always tough to see

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how it's cost-effective. And I think that's probably true here, but I think this is a true attempt to make this more cost-effective. And besides, I don't know how you put a cost-effective label on anything that has to do with the Department of Corrections and try to keep individuals out of full incarceration. But I do think that this could make the Work Ethic Camp a lot more cost-effective. If we can double the number of people out there, or even a 50 percent increase, and stay at somewhere near the same ratio or number, at least, of employees out there, it will be more cost-effective. But I think it will have a great impact on the life of some of the felons who are...felons come in all sizes, you know. They can be murderers and certainly they're not going to be out there. Sometimes they can be somebody who, as a result of their circumstances, ended up charged with a felony and is doing time in the State Penitentiary. So I think it provides a great transition. I think we can make our dollar more effective. And so I continue to support this bill and hope that it will be advanced. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Wallman. [LB83]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I've been looking over this and hearing the arguments about cost-effectiveness. We're dealing with people here. And they're inmates maybe, but I looked at this sheet right here: schools may lose attorney hiring role. And how much money do we spend on attorneys for children? Is that education? It starts in the schools. And if we take care of our schoolchildren, maybe we wouldn't have so many people incarcerated. Do we call schools work camps? In a way, they learn there how to deal socially with other people, with their teachers. And work camps, we had a so-called magnet school, or whatever you want to call it, in our district and we yanked kids out of Omaha, Sioux City, and we put these kids in a strange environment and it didn't work. And is that what we're doing here, we're going to take kids out of Ray's district or Senator Ernie's district? This work camp sounds like, like I heard over here, a no-brainer. And anything is a no-brainer (laugh) to me, I guess. This work camp sounds good and I hope it is good. But I have a hard time spending more money when we used to have work camps and we went downhill. Penitentiary, we had farms; we had Beatrice, BSDC, they earned their own money. They had milk cows. Penitentiary had some of the best dairy cows in the state. Those prisoners actually earned their keep and they fed the prisoners. And so we had a good system, but we took it away. And so, you know, this work camp thing, if we yank kids out from here and there and everywhere, or adults, young adults, it's really a tough issue. And I'm kind of neutral on this issue, I'm waiting for a little more information on this. And I turn the rest of my time over to Senator Chambers. [LB83]

PRESIDENT SHEEHY: Senator Chambers. [LB83]

SENATOR CHAMBERS: Senator Wallman, you're giving me your time? Thank you, Senator Wallman. Thank you, Mr. President. [LB83]

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PRESIDENT SHEEHY: You have about 2 minutes, 30 seconds. [LB83]

SENATOR CHAMBERS: Thank you, and I'll try to make the most of it. And I am preparing an amendment which is going to be a serious amendment. It won't hurt Senator Synowiecki's bill, but it will correct some bunglesome language. Maybe a tactic ought to develop here. If somebody can get enough votes for some lamebrained notion to establish some ineffective activity and get it funded, then, when it fails, come back to the Legislature and say, well, you know, now that we have that there, let's spend all the money it takes to make a go of it. It never should have been done, but we did it. So now it's going to be sending good money after bad, but let's go ahead and do it because we're so deep in now we can't get out. The Legislature can do whatever it wants to do. However, what we ought to be looking at is why it costs so much to incarcerate somebody in the penitentiary. Why are those costs so high? Maybe there are people going to the penitentiary who ought not to be there. People of my complexion might make up about 3 percent of the population of the state, or less. Not being an economist, I'm not that good on these numbers but somebody will be. But more than a third of the occupants of the penitentiary... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: ...are people of my complexion. And you think I'm not troubled by that? But the only time we discuss seriously that situation involving crimes and punishment is when harsher penalties are to be adopted. More jobs have...be given to white people in rural areas where they don't want black people to live. You think black people would be welcome to come and live in Tecumseh where they put another prison? But those "Tecumseh-ites" like the prison and they like to have plenty of us, meaning people of my complexion, because they make money off us. The prison is the factory, black people are the raw material, and the white people are the workers. That's what they see us as, that's what they like us for, and they don't respect us. And I'm not respected here, and I know that. You think I'm crazy? Well, I'm not. I know what my status is here. But I'm not going to walk around here like some of my... [LB83]

PRESIDENT SHEEHY: Time, Senator. [LB83]

SENATOR CHAMBERS: Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Senator Fulton, followed by Senator Dubas. Senator Fulton. [LB83]

SENATOR FULTON: Thank you, Mr. President. There are two issues, I guess, that I want to address here, second of which will be the math behind this. The first of which, though, I want to take this opportunity to put this on our radar screen and hopefully to any other radar screen that's out there. In Appropriations, we are looking at budgets



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to...we need to increase spending in order to incarcerate people. We're dealing with social issues on the punitive end with a mind to rehabilitate. A friend of mine once said that many of our social problems ought to be solved in the playpen rather than the state pen. I've always remembered that because it's pretty catchy, but it's true. Now I'm not here trying to suggest that we legislative behavior in the playpen and that's not something I'm getting at. Not all things should be legislated away. But the Legislature does play a role in forming society and this is something that needs to be addressed--social behaviors that are formed at an early age, which can be controlled by societies, by schools, which can be formed by societies and schools and parents. So any of you out there that are listening who are parents or who have any influence with youth, recognize that your input into the life of a youth has ramifications that will surpass your own lifetime, and your lack of activity with the youth also has ramifications that will surpass your lifetime, oftentimes toward the detriment of society. So as we talk about the money that we're spending to incarcerate criminals, let's recognize that we would go a long way to make sure that behavior is such that we don't have criminals, so that young people understand their importance, both in the lives of those who love them and also in the lives of the broader society. So I had an opportunity to get on a soapbox so I took advantage of it. The second issue I want to address is the financial aspect of this. And I understand fully, after having just given my piece on item number one, the financial aspect is only a part, only a chapter of this book, but it's something that we need to address. That number I gave earlier, \$16,000 per year per admission, I have some further information. It was based on the number of admissions in that year. The number of admissions in that year was 248. So you can do the math and get an idea of what the operating costs are for the Work Ethic Camp. The updated number in the most present year for which they have information is \$19,400 per person and that's based on 226 admissions. So some algebra, if we have 53 people that are utilizing the Work Ethic Camp now and if the maximum occupancy is, I think it was, 125...is that right? [LB83]

SENATOR SYNOWIECKI: Hundred twenty-five, yes. [LB83]

SENATOR FULTON: A hundred and twenty-five, we could increase by a factor of 2.4 from where we are now to get up to the maximum occupancy. What that would do, algebraically, is it would bring the cost per admission down to about \$8,000 per year. I understand that that will change as there may be some staffing issues that need to be addressed. But let's say \$10,000 per admission per year if we were to utilize this facility to its full capacity. From a numbers standpoint, that makes sense. If we can achieve the same objective that the State Penitentiary is trying to achieve at a lesser cost, then I think that we ought to go that way. So \$10,000 per year, if we could maximize that occupancy, versus \$26,000 per year at the State Penitentiary,... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR FULTON: ...those numbers seem to compute. And so bearing in mind what I

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said before about societal obligations to our youth, I believe that the Legislature should advance Senator Synowiecki's bill and then keep a close eye on how this money is being used in the future. So I yield the remainder of my time. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Dubas. [LB83]

SENATOR DUBAS: Thank you, Mr. President. Would Senator Synowiecki yield to a question? [LB83]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB83]

SENATOR SYNOWIECKI: Yes. [LB83]

SENATOR DUBAS: Thank you very much. I'm sure that there's statistics that have tracked the clients from this facility. Could you share some of those stats with me and the body? [LB83]

SENATOR SYNOWIECKI: I'm sorry, Senator. What? [LB83]

SENATOR DUBAS: Statistics that have tracked successes, problems, etcetera. [LB83]

SENATOR SYNOWIECKI: Individuals that are now sentenced to the Work Ethic Camp are on probation. And when they exit the facility, they're released to an intensive supervision probation officer in the community. And I've just been handed a note that a success rate has been shown of 74 percent, which, you know, that's open to what that might mean. I think what that means is, and I don't know for sure, I think what that means is 74 percent of the individuals that exit the Work Ethic Camp and continue with their intensive supervision probation successfully complete that probation period. [LB83]

SENATOR DUBAS: Are they allowed access to the Work Ethic Camp like if they would reoffend? Is that an option for them still, or are they then considered a repeat offender and have to go on to more serious incarceration? [LB83]

SENATOR SYNOWIECKI: Ultimately, all them decisions are up to the court. [LB83]

SENATOR DUBAS: Okay. [LB83]

SENATOR SYNOWIECKI: There has obviously been some problems when we're at 59 offenders out there, and the problems are due to an array of issues, perhaps lack of court buy-in, perhaps lack of seamless delivery. What we have is a situation where the Work Ethic Camp is run by the Department of Corrections and the Probation Administration is the gatekeeper, along with the court, on who goes there. So there's a lack of seamless service delivery there. And I think that might be one of the essential

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problems, is that we have a lack of administrative focus relative to how we get offenders out there. [LB83]

SENATOR DUBAS: Okay, that was going to be my next question then. Why aren't we using this? And I'm assuming that this bill is directed to try to increase the client load in this facility. But if we have administration in place that's not buying into this concept or we have some confusion as to what's available, what is it that we as a body can do to make sure that this...as I campaigned, I talked regularly about we owe our taxpayers efficient and effective use of their taxpayer dollars. No matter what people think about this facility, it's in place, it sounds like it's a state-of-the-art facility, it provides a lot of opportunities to this type of clientele. Yet we aren't using it to its maximum effectiveness. So what can we as a body do to make sure that the administration that's in place--probation, courts, etcetera--are using this, are using this to the full capacity and letting us have success, 74 percent success rate? Not very many programs can claim that. [LB83]

SENATOR SYNOWIECKI: Senator Dubas, I agree completely. I'll tell you that kind of the hodgepodge approach the Work Ethic Camp, I think, has brought about why we're here today. I mean, I'm going to be very honest, LB83 is an attempt to save the Work Ethic Camp, to sustain it. I mean, we can't...you just came off the campaign trail. Those folks that you went door to door talking with, they would not tolerate this lack of utilization. And the cost per offender that Senator Fulton talks of, you know, we're not getting the appropriate level of outcomes for our taxpayers relative to this facility. There's an array of reasons. And this, my opinion is that we, again, we have Probation Administration... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR SYNOWIECKI: ...feeds the Work Ethic Camp in terms of getting offenders there in collaboration with the court and it's run by the Department of Corrections. And I think, my personal opinion is, that that lack of administrative focus has encumbered getting folks out there. And perhaps with LB83, opening the scope of participation to parolees will remedy the situation. That's my hope. If it doesn't, I'm afraid we'll be back here addressing some other alternatives to the operation of the camp. [LB83]

SENATOR DUBAS: Well, I'm not sure if this bill is going to address administration. But to me, it sounds like that's where we're needing to focus some attention and making sure that those people who are in place to use this facility are using the facility and not holding the location against it or any other reasons. Because it's been built, it was built with taxpayer dollars. We owe our taxpayers and the clients that this facility can serve responsibility and accountability. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Further discussion on LB83?

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Senator Nelson. [LB83]

SENATOR NELSON: Am I on? Thank you, Mr. President. Senator Synowiecki, may I address a question or two to you? [LB83]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB83]

SENATOR SYNOWIECKI: Yes. [LB83]

SENATOR NELSON: Senator, I'm not completely familiar with the Work Ethic facility there. Could you tell me just a little bit about...it's located in McCook, do I recall that? [LB83]

SENATOR SYNOWIECKI: Yeah, I believe it's just north of town. Senator Nelson, I've been out there two times. I've toured the facility twice since I've been here. It really is kind of a state-of-the-art facility. It's essentially brand new, it's only five or six years old. And so relative to the physical features, I believe it's just north of McCook and it is really state-of-the-art. It's essentially brand new, it's only five years old. [LB83]

SENATOR NELSON: And all of the offenders there are housed within the facility, are they? They work, as I understand it, out in the community on certain projects but they're housed in the facility? [LB83]

SENATOR SYNOWIECKI: Yes. [LB83]

SENATOR NELSON: All right. And we could double the capacity, as I understand it, if the Parole Board could send people out there? [LB83]

SENATOR SYNOWIECKI: Senator Nelson, no, we wouldn't be able to double the capacity. What we have is a lack of utilization. Capacity, at current staffing levels, is 125. Department of Corrections informs me that they can have...they can hold 125 offenders there at current staffing levels. Right now, as of February 14, we had 59 offenders there. So even I can figure out that the cost per offender is dramatically higher than if we had 125 offenders there. [LB83]

SENATOR NELSON: And I think there was a neutral position before the committee, but one proponent and that was from the Corrections system. Is that correct? [LB83]

SENATOR SYNOWIECKI: Yes, the public hearing, Bob Houston appeared--he's the director of the Department of Correctional Services--as a proponent. There was one neutral testifier, Senator Nelson. It was Deb Minardi, who is with the Probation Administration. [LB83]

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SENATOR NELSON: All right. This sounds like a very good bill to me, Senator. And on the basis of what I've heard today and what you've said, I will support it. Thank you. [LB83]

SENATOR SYNOWIECKI: Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Mr. Clerk, do you have an amendment filed at your desk? [LB83]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend the bill. (FA30, Legislative Journal pages 635-636.) [LB83]

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on FA30. [LB83]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this was bad legislation when it was presented and when it was enacted into law, but it is the law now. I will tell you what my amendment is, for the record. On page 5, in line 17 and again in line 23, you will see this phraseology, "unsatisfactorily discharged." Well, I don't think that it's the nature of the discharge that we're dealing with here, but we're dealing with the fact that the person being discharged performed unsatisfactorily. This is the bunglesome language I'm talking about and this is the kind of bunglesome trash legislation that passes this Legislature because people are not attentive. But so here's the way my amendment would read. In line 17 and in line 23, I would strike the word "unsatisfactorily." Then after the word "discharged" I would insert the words "for unsatisfactory performance." Then it would say "if the offender is discharged for unsatisfactory performance from the incarceration work camp" and so on. That's the way the language should read and I'm offering that amendment. And you may accept it; you may reject it. But I want it for the record. I spend a lot of time talking about education. I will emphasize how poor the educational opportunities are for black children, Latino children, Native American children, poor white children. But then I also point out that the education being given to white children is not great shakes either. Whereas on certain tests, the children I'm concerned about, on the CAT, will test out in the 20-something percentile and white children in the 70-something percentile; 70-something is not anything to be proud of. That's not anything to be proud of, but it's 50 percentage points above what my children are doing. To show you what I mean about white people not getting that good an education, I got a gray-covered folder with some information and it says NSEA-retired, Nebraska State Education Association retired. Then underneath that, enclosed in parentheses, the commitment continues. Inside is a sheet of paper with a list of bills that this group is talking about their position with reference to. I ended that with a preposition, huh? I wanted to find out who was paying attention. Some of the bills they support, some they support with reservation, and some they're going to monitor. And guess how they spell monitor, these retired educators? M-o-n-i-t-e-r. I don't even know if when they were talking about the Monitor

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and the Merrimack during the Civil War they spelled Monitor M-o-n-i-t-e-r. Maybe they did. There's a creature from mythology called a Minotaur, but it's not monitor. This from the teachers, m-o-n-i-t-e-r, and they're teaching my children and the teacher can't spell. That's by way of example. My problem is that I read everything I can get my hands on and I shouldn't. I was telling you all about the difference between respect and fear, and how people of my complexion are not respected. People want to make those two words, "fear" and "respect," synonymous, but they're not. I've given this little example to some of my former colleagues or, for Senator Wightman's benefit, some of my erstwhile colleagues. (Laughter) And to digress further, since he accepts that designation of erstwhile conservative, I've got to find a different designation which nettles him a bit. He's over here smiling (laugh) like a Cheshire cat. And for those who don't know about the Cheshire cat in Alice's Adventures in Wonderland, written by Lewis Carroll, there was this cat and he just kept...parts of him disappeared and disappeared until nothing was left but a wide, toothy grin. So when somebody says, grinning like a Cheshire cat, you know what they mean. But Bismarck had his nephew sitting on his knee. Most people know Bismarck was a powerful fellow. So Bismarck asked his nephew, what do you want to be when you grow up? The nephew answered the question this way, not what he wanted to be, who he wanted to be like. He said, Uncle Bismarck, I want to be just like you. And Uncle Bismarck said, nephew, why do you want to be like Uncle Bismarck? Nephew looked up at him and he said, because people are afraid of you, Uncle Bismarck. So Uncle Bismarck looked at the child, he said, well, don't you want people to love you? And the nephew said, oh, no, Uncle Bismarck, I want them to be afraid of me. Uncle Bismarck said, why do you want them to be afraid of you rather than love you? The nephew said, when people love you they take advantage of you; when they fear you, you take advantage of them. That's the way it goes. People show regard for certain of us who are at the margins only when they think that we're able to fight back and defend ourselves. When I was a small lad in grade school, they read the story Little Black Sambo, and I was the only black child in the classroom, and the white kids were allowed to laugh and the teacher didn't say anything about it. And at that time, I couldn't defend myself, I couldn't fight for myself. But I never forgot that. I can fight for myself now, I can defend myself now, and I can fight for others who are similarly situated to the way I was, as that lone black child in that white classroom, being mocked and laughed at based on a story being read by a white teacher. And my parents had taught me, when you go to school you respect the teacher. So naturally that created in my mind a quandary. But I was an obedient child outwardly. But my thoughts were mine and I had thoughts toward that teacher, which my parents probably would not have approved of. But if they were totally honest and I had explained what happened, they might have had thoughts of a harsher variety than mine because mine were the thoughts of a child whose feelings had been hurt, and nobody was there to speak for me, and they were being hurt by the one my parents told me to respect. So all that talk of respect means nothing to me. There is no respect for a black person in this society and I know it. There was no respect for me as a child, there is no respect for me as a man. But I'm a man now and I can and I will fight and I know how to fight. On this floor,

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my job is not to fight in a physical way. My job is to learn the rules and do my fighting within the rules, even though my colleagues, ever since I've been here, made a regular routine of changing the rules to put me in a box, to shut me up, to control me, which they never could do. Back to this bad bill. I don't think it's a good idea and I'll tell you why. Because the ones supporting this bill would not support looking at the problem being addressed in a systemwide manner. Suppose you put 40 or 50 people into this program Senator Synowiecki nobly is recommending. How many hundreds of inmates are there who should be in a similar program but there is none? But now everybody is going to feel good because the matter has been taken care of. We have a transition program but, like so many things that happen to those who are locked up, it's not sufficient to provide what the Legislature is saying ought to be available for anybody situated... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: ...within a certain set of circumstances. I want us to look at the entire prison system. And if there should be a transitional program, incorporate it into the system. Don't do it in this little building just to help these senators from western Nebraska keep jobs for people in their neighborhood and get free workers who will clean up the streets and cut the grass and pick up limbs and all these other things they talk about. If you really care, if this means something, why don't you talk about doing something with the system? And that's the difference between me and all the other senators who come down here. You skim along the surface like that water bug. You are so lightweight that you cannot even break the surface tension on that water. That's how you skate across. You have no substance, no weight. You have to break that film, go under the surface, and see what is there. And I try to bring it to you, but you don't pay attention, just like they didn't pay attention when they first passed this bill. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the opening to FA30. The floor is now open for discussion. We have Senator Synowiecki, followed by Senator Harms, and Senator Chambers. Senator Synowiecki. [LB83]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. I support Senator Chambers' amendment and want to publicly thank him for his assistance in the drafting of the bill. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Senator Harms. [LB83]

SENATOR HARMS: Mr. President and colleagues, Senator Chambers. [LB83]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB83]

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SENATOR CHAMBERS: Not to temptation, but to Senator Harms, yes. (Laughter)  
[LB83]

SENATOR HARMS: You're wonderful today, thank you. Senator Chambers, I just wanted to clarify something for you, first of all. I apologize for what you might have gone through as a child. [LB83]

SENATOR CHAMBERS: You didn't do it so you don't owe me an apology. [LB83]

SENATOR HARMS: No, but what I want to say to you is, I apologize that that occurred in our public schools. And I will tell you now that there is absolutely no reason, no excuse for that to ever happen again. And I respect you as a man, no matter what color your skin is. And I want you to understand that I think it's important that we never allow a child, regardless of what culture he comes from, to be discriminated, made fun of, because it is not and cannot be our future. And I want you to understand that's where I come from, that's what I believe in, and I am humbly sorry that occurred because there is absolutely no reason for it. Thank you. [LB83]

SENATOR CHAMBERS: Can I respond? [LB83]

SENATOR HARMS: Yes, you may. [LB83]

SENATOR CHAMBERS: Thank you, Senator Harms, for your kinds words, but my skin thickened considerably a long time ago. What I discuss now is a memory. It is a vivid memory, as though it happened yesterday, but I cannot be hurt inside by white people ever again, no matter what they do, no matter what they say. I don't look for anything other than mistreatment. So I'm able to function in a hostile environment, but I'm glad to know that there are people with an attitude different from the one manifested toward me when I was a child. But that attitude still prevails in this society. They still make black children, in the curriculum of the school, read that Huckleberry Finn. I won't use the N word, but there's a paragraph where they name this character the N word. It might appear nine times in one paragraph. And I don't know what white people are trying to teach to their white children, or get across to black children, when they say this is the greatest literature that there is and it's got to be in the curriculum, white people need this and black children need to hear it so they know what they are, they know what their role is. And this is still taught in the schools now as a part of the curriculum. Let it be in the libraries. I think everything ought to be in the library, everything, trash literature, all of it. Let the children be exposed to whatever is out there. But there are some things even in a library which are not age-appropriate for children in the lower grades. So when I make these kinds of statements, I'm expecting them to be viewed and understood by people who can think in, to use a word, nuanced ways. I'm talking about material which is age-appropriate. Let the story of N Jim be in the high school library. Then let a white kid come up to me and call me the N word and I can deal with him. And what I told my



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children, when you go to this...because they went to a school where there are a lot of white kids--Fontanelle was the name of it--if you get called one of those names, you hit him in his mouth and you will teach him with your little knuckles what his parents didn't teach him, what the schools didn't teach him, what the church didn't teach him, but you might save his life. Because if you knuckle his nose or his mouth now, you will stop him from doing that to an adult who might take his life. [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: And we have foolish black people who use that N word, but because they are fools doesn't mean that intelligent people should follow the example of a fool. So the next time I'm recognized, I'm going to tell you about an incident that took place in the schools, since I'm kind of on that, with my son when he was a little, bitty boy. But he was obedient and he followed his daddy's orders. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Chambers, followed by Senator Dubas, Senator Karpisek. Senator Chambers. [LB83]

SENATOR CHAMBERS: Thank you. Here's what happened. I had two sons and a daughter attending this school and the principal had my son, my obedient son, standing with her in the hall and she said to my daughter, whose name is Gayla, Gayla, I want you to talk to your brother. The principal's name was Miss Doane (phonetic). Gayla said, Ms. Doane (phonetic), why do you want me to talk to him? She said, I just want you to talk to him. So Gayla said to my son, what happened? She said...he said, one of those white boys called me that word. And Gayla got indignant. She said, you know what Daddy told you to do when one of those boys calls you that. She...my son said, I did. And my daughter looked at the principal and said, you need to talk to my father then. And the principal never talked to me about that. So how do I know about it? Because my children told me. My children were not taught that you have to let people slap you on one cheek, then you let them slap you on the other one, too, because I didn't rear my children to be fools and I didn't rear them to be cowards. Do I think I'm the toughest man in the world? Not by a long shot. I might be weaker than cream, I might not be able to lick my lips, but if somebody comes to do something harmful to me they better be ready to stay there all day, because either we're going to work this thing until they can go on no more or until I can go on no more. And if I can go on no more today, I better not be well tomorrow and you still be around. And that's the kind of life I have led. It's the kind of life that black people lead. But then I have to come to an assembly like this and I have to learn your rules, I have to read your laws, I have to try to correct them as I'm attempting to do now, I have to learn your history and inform you of your history. I have to point out the deals, the boondoggles done by your white leaders, the Governor. And who's going to tell you about it if I don't? Nobody. This shouldn't be my job. You know what I should be doing? I should be coming down here and gloating every time I hear of

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a program that hurts white people. When white women, who are single parents who have families, cannot take care of their little children, I should gloat, but I don't. When I found out through the black woman who works in my office that white female employees in the state of Nebraska paid the same amount into the pension program as any white male working the same job, got a lesser payout when she got her pension, I said, white people know that and it doesn't bother them? Obviously, it didn't. So who brought a bill to correct it? I did, and corrected it. And you know what I had to argue to get these white men to go along with it? When this white woman goes to the store to buy a loaf of bread, they don't tell her, because you get less in your pension that we're going to charge you less for a loaf of bread than we charge this white man. Not every white woman lives longer than every white man, which was the rationale--since they live longer and you're going to have to pay them longer, give them less in each pay. But that is insane, but that's the way white people do things, because they run everything and they determine what's right and wrong. But I have a system within me of what I consider to be just and I'm not going to be bound by what they say, what they do, what their laws say, if I'm in a position to change it and bring about what I think ought to be just. But you all are not going to have me to worry about much longer. Then you can do anything you want to. You can fund these boondoggles and send good money after bad. You can have this bunglesome language in your laws that ought to embarrass you if you took reading when you were in school. But you don't have to read the bills. [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: You don't have to do any of the things I do, and you'll still get by. The man who wound up being Attorney General now got six bills passed when he was in the Legislature. The two biggest bills that Senator Smith, who is now the Representative from the 3rd Congressional District, the two biggest bills he got, one to let him shoot firecrackers for a longer time during the sesquicentennial, and also to let people sell food in an open-air market without getting a regular food vendor's license, those are the two dynamite things he did and now he's in Congress. I couldn't get a vote to be dogcatcher in this state (laugh), not that I'd run for it, because if I caught the dogs I wouldn't be killing them. (Laughter) But anyway, thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Dubas, followed by Senator Karpisek, and Senator Wightman. Senator Dubas. [LB83]

SENATOR DUBAS: Thank you, Mr. President. I appreciate Senator Chambers raising this issue and I really feel like he threw down the gauntlet when he challenged us to not just address the symptoms but to address the correctional system as a whole. And when we use the word "correction," in my mind, that means we're wanting to change behavior, and I'm not necessarily thinking that our correctional system right now is moving in that direction. I do think camps like what we have available in McCook are an attempt to make corrections and to help people change behaviors before they get any

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farther down, down the road. But we spend a lot of time treating symptoms and not wanting to look at what real causes are. We continue to put band-aid over band-aid, over band-aid, until the band-aid can't hold anymore, and then we're wondering why we've got infection and why we've got all kinds of nasty things going on. So I take Senator Chambers' challenge very seriously, and I think if we're going to look at the McCook situation, we need to look at our correctional system as a whole and what we're doing and how our money is being spent. We're spending a lot of money on incarceration that we could be spending on education, that could be spent in constructive manners. Right or wrong, the McCook Work Camp is there and it's showing a success rate that a lot of agencies would like to have. But for whatever reason, we have administration in place that won't use the McCook Camp. Maybe it's the location. I think western Nebraska understands very much the fact that they must travel east to get a lot of services, but yet when we're requesting eastern Nebraska maybe to travel west to use some services there's a little reluctance there. I might be wrong, but I don't think so. And I don't want to turn this into a rural and urban issue, because it's not. It's a state issue. We have a great facility in place, it's not being used, we need to find ways to compel administration, parole, probation, whatever agency is in place to use this, and if we can show...and I think we need to have statistics out on the floor, available for senators to use to show that this is a successful program that we can build on across the state, and not just have it be in McCook but have it be in all areas of the state, to be used effectively, that I think we can make some positive changes in our correctional system for all people, not...you know, no matter what your color is or where you live or, you know, what's going on. I think we need to find ways to build positively, to move forward. Again, right or wrong, this institution is in place. We owe our citizens an effective use of their tax dollars. We as a legislative body should be holding the administration accountable. I want to do whatever I can to make that happen. So thank you very much. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Karpisek. [LB83]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Could Senator Chambers yield for a question, please? [LB83]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB83]

SENATOR CHAMBERS: Yes, I will. [LB83]

SENATOR KARPISEK: Thank you, Senator Chambers. I just saw that you voted this bill out of committee and I guess could you explain that for me? I... [LB83]

SENATOR CHAMBERS: Yes. [LB83]

SENATOR KARPISEK: Okay. [LB83]

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SENATOR CHAMBERS: And I did, I did when I first began to speak; that I wanted the bill on the floor for the very discussion we're having now, so that all aspects of it could be discussed, the origin of the bill but also some broader philosophical issues relative to crime and punishment. So I voted to bring the bill out. Because I'm not against the bill itself, as such. [LB83]

SENATOR KARPISEK: So is the main part where this camp is, or is that part of... [LB83]

SENATOR CHAMBERS: Initially, that's what it was, but now that the elephant is here, Senator Synowiecki wants to try to make the best use of it, and that's why I said I would not offer an amendment or anything at this point to try to shut it down, but I want to use it and the facts that are being presented to show that this approach is piecemeal and not sufficient. And the only reason I'm expressing my view that I think some of the people are supporting it from western Nebraska is because it's going to give some work and benefits to them. But if you get outside of where they live, they're not in favor of letting this be like a pilot project and we use it throughout the corrections system. That would cost money and then all of a sudden thumbs down and they're not for it. So that's kind of what I was about and have been about. [LB83]

SENATOR KARPISEK: I was kind of...I was getting it, Senator Chambers, but I guess I just want to...you know, we have other things, like some community hours that people can use. Being mayor, we would do those things to help people. They'd have to go around, pick up the park, do that sort of thing rather than have to pay a fine, rather than have to spend time in jail. I support the idea of this work camp and especially if we can help people out rather than throw them in the penitentiary for five, ten years, if this will help to get them back out to be a member of society and if we can use it in a good way and the best bang for our buck. Senator Chambers, I just want to say I don't...I don't see this as a black-and-white issue. I hope that those sort of thinking...that thinking is gone. I realize that he thinks it is still here and it probably is, but I don't so much see it on this floor. And if I would see it, and I know many of my...most of my colleagues, if not all, if they saw it they would stand up and say this isn't right. So I just want to put that out, to say that is not what we're about. We're here to try to do the best we can for everyone in this state, not only my district, not only the ones around me, but the whole state. And we're here to listen. If Senator Chambers has ideas that we can try to help his constituents, we better be doing that. So we're here to help. We're not always here just to argue with Senator Chambers, although that is kind of fun once in awhile, but we're here to help. Ask us to help rather than always chastising us; ask for a hand out. We can help. Thank you, Mr. President. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Mr. Clerk, you have announcements at your desk? [LB83]

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ASSISTANT CLERK: Mr. President, I do. Business and Labor Committee will have an Executive Session at 11:00 a.m. in Room 2022; that's Business and Labor, 2022, 11:00 a.m. [LB83]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We have Senator Wightman, followed by Senator Synowiecki, and Senator Chambers. Senator Wightman. [LB83]

SENATOR WIGHTMAN: Thank you, Mr. Chairman. I would call for the question on FA30. [LB83]

PRESIDENT SHEEHY: Do I show five hands in demand of calling the question? Seeing five hands, the question before the body is, shall debate close? All those in favor vote yea; opposed, nay. Senator Wightman. [LB83]

SENATOR WIGHTMAN: I'll wait. [LB83]

PRESIDENT SHEEHY: For what purpose do you rise? [LB83]

SENATOR WIGHTMAN: I would ask for a call of the house. [LB83]

PRESIDENT SHEEHY: The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB83]

ASSISTANT CLERK: 18 ayes, 10 nays to go under call, Mr. President. [LB83]

PRESIDENT SHEEHY: The house is under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. Senators, the house is under call. Senator Wightman, how would you like to proceed? Would you like a roll call vote, or call-in? [LB83]

SENATOR WIGHTMAN: Call-in votes are fine. [LB83]

PRESIDENT SHEEHY: The question before the body is, shall debate close on FA30? Mr. Clerk. We will have to proceed with a roll call vote. Again, this is for, shall debate close on FA30? All those in favor vote yea; opposed, nay. Mr. Clerk. [LB83]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 636.) 31 ayes, 1 nay to cease debate, Mr. President. [LB83]

PRESIDENT SHEEHY: Motion to cease debate does pass. Senator Chambers, you're recognized to close on FA30. [LB83]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, to make clear what the amendment does, in lines 17 and 23 you will find the phrase "unsatisfactorily discharged." My amendment would strike on each of those lines the word "unsatisfactorily." Then, after the word "discharged," would be inserted the words "for unsatisfactory performance." So instead of saying the offender is unsatisfactorily discharged, it would say the offender is discharged for unsatisfactory performance. It is so reasonable that there's a good chance it will be rejected. I have a way of attaching nicknames to people. Sometimes I'll let the body know why; other times I won't; and sometimes the person doesn't even know why. I had referred to Senator Hudkins, it may have been last session or two sessions ago, as "Wonder Woman." I'm looking at the memo she handed around today and I want to amend that to "Wonderful Woman." I'd be in my office, Senator Hudkins, and when I'd hear somebody say, I yield my time back to the Chair, I would grind my teeth, I would clench my hands and I'd say, why, why, why? With all of the problems we have in the Unicameral Legislature why do we have to have one like that? Read Senator Hudkins' memorandum and you will see why I am so pleased this morning with what she has presented to us. This amendment is designed to get rid of what I refer to as some bunglesome language in the existing law and it is repeated in new language. I haven't had a chance to look at every bit of underlined language in Senator Synowiecki's bill to see if that term "unsatisfactorily discharged" is in here in other places, but sometimes I get so upset with how poorly bills are drafted, the difficulty of understanding precisely what language means in the statutes themselves, that I have jestingly said, when I'm out of this place I will seek a job which would require me to start with page 1, Volume 1 of the Nebraska statutes and read it page by page, word by word, and offer corrections and clarifications in these existing atrociously written statutes. And I was half-jestingly offered the job, but I don't want it. When I leave this Legislature, I will not look back toward Lincoln. I will shake the dust off my feet. I will never come this way again for anything. When they had these old-time, old-fashioned senator days for people to come back who have got nothing to do with their time, and they come here, I won't be among them. And as I've stated, if I have occasion to fly west and the airplane is going to fly over Lincoln for any reason other than to annihilate it, I will fly a different airline. Lincoln holds no sentimental attachment from my side. I don't know of many things that have happened here that would make me want to visit Lincoln again. When the weather is very inclement--some people say "IN-cle-ment," put the emphasis on the wrong syllable or, Senator Dubas, as they used to say, put the "em-PHA-sis" on the wrong "syl-LA-ble"--I would get on that highway and try to make it home. Sometimes there would be slush... [LB83]

PRESIDENT SHEEHY: One minute. [LB83]

SENATOR CHAMBERS: ...reaching midway my hubcap and I'd make it; threats of tornadoes and I'd look off in the distance and see these lowering clouds, but I would rather risk facing the tornado than staying overnight in Lincoln, Nebraska. Now if you

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want to adopt this amendment, the opportunity is here. If you choose not to, I won't be offended. Your attitude could be it served the state since 1997. If it was stupid then and it's stupid now, the stupidity was okay then, why wake a sleeping dog? I guess it's just in me. That's all I would have, Mr. President. I will take a machine vote. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the closing on FA30. The question before the body is, shall FA30 be adopted to LB83? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB83]

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB83]

PRESIDENT SHEEHY: FA30 is adopted. We'll now return to discussion on LB83. Senator Synowiecki, you're next in the queue. Call is raised. [LB83]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor and members. And I'm glad Senator Chambers did point out that one part of that amendment was existing language and the new language, which was changed by Senator Chambers' amendment, simply reiterated what was existing language within the bill. Senator Dubas spoke relative to some statistics on the Work Ethic Camp and I think she's absolutely correct in perhaps for members to know some numbers relative to the camp in terms of success rates and whether or not it's an endeavor that has any value. I've been told that between 2004 and 2006, out of the 718 individuals that successfully completed the programming at the Work Ethic Camp, 85 of those returned to the Department of Correctional Services. It's an 11.8 percent rate out of those that successfully completed the camp, the regimen, if you will, at the camp between 2004 and 2006. Fifty of those eighty-five were due to new offenses that occurred after completion of the Work Ethic Camp, but I think overall I think it shows some degree of value relative to those percentage rate successes. Earlier I had spoke to a percentage rate of 74-plus percent of success rate for those exiting the camp that return to their intensive supervision probation in the community. Again, I think that shows some degree of value relative to the programming that is available at the Work Ethic Camp. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Further discussion on LB83? Seeing none, Senator Synowiecki, you're recognized to close. [LB83]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. Members of the Legislature, LB83 essentially seeks to sustain the Work Ethic Camp in our state. It's an attempt to rectify systemic problems that have been going on since its inception in terms of getting offenders to the camp. I don't think I'm out of place here when I say this current arrangement of having 59 offenders at a state facility that has 72 staff members simply cannot be tolerated, and that this underutilization of the camp needs to be

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rectified, and LB83 is essentially an attempt to rectify that systemic problem. Frankly, if LB83 is not successful, you know, we'd have to look at other alternatives relative to the sustainability of the camp. Senator Christensen spoke to some of the benefits of the camp relative to individual offenders, as well as the local community within the McCook area, and I would also submit that LB83 is a chance to maximize those benefits. There is programming at the Work Ethic Camp relative to assistance in educational needs of offenders with GED assistance. There's substance abuse programming and counseling. There's obviously work force development programming at the Work Ethic Camp. LB83 represents an opportunity to maximize those benefits to offenders within our system. I actually think it's a perfect fit for offenders that may be in our penal complex that may need some of these services that are available at the Work Ethic Camp and the Parole Board will have what I think is a unique opportunity to expose those offenders to this programming prior to being released on parole. In my discussions with some members of the board, I think it might...it may incent paroling individuals a little bit quicker and get them out of our state penal system, which is a notoriously overutilized asset in our state. I think LB83 fits perfectly with our visions as embodied within the Community Corrections Act, both the act from the early 1990s that Senator Ashford spoke and to the latest version from 2003, LB46, the Community Corrections Act where we attempt to save the most expensive assets in our state, relative to the correctional infrastructure, for those that really need it, and that we move individuals to less-costly, less-restrictive environments whenever possible. And I think LB83 is consistent with that as well. With that, I would hope that you can support the bill and move it on to Select File. Thank you. [LB83]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. You've heard the closing to LB83. The question now before the body is, shall LB83 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB83]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB83]

PRESIDENT SHEEHY: LB83 does advance. Do you have announcements, messages at your desk? [LB83]

ASSISTANT CLERK: Mr. President, I do. Thank you. New resolutions: LR35 offered by Senator Avery; and LR36 offered by Senator Preister. Senator Chambers would designate LB476 as his priority bill for this session. Your Committee on Revenue reports LB106 to General File with amendments, LB364 to General File with amendments, and LB456 to General File with amendments, and LB356 as indefinitely postponed. That's all that I have. (Legislative Journal pages 637-643.) [LR35 LR36 LB476 LB106 LB364 LB456 LB356]



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PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to next item under General File. [LB223]

ASSISTANT CLERK: Mr. President, LB223, introduced by the Revenue Committee. (Read title.) Bill was read for the first time on January 9 of this year, referred to the Revenue Committee. That committee reports the bill back with committee amendments attached. (AM192, Legislative Journal page 450.) [LB223]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on LB223. [LB223]

SENATOR JANSSEN: Thank you, Mr. Speaker, members of the Legislature. LB223 is the annual bill from the Department of Revenue to enhance the administration and enforcement of laws, tax laws, of this state. This year the bill deals largely with three areas: the streamlined sales and use tax agreement compliance; the second thing it does, it clarifies changing...and changing provisions of the incentive act; and three, withholding enforcement, including access to information required by federal law. The changes to comply with the streamlined sales and use tax agreement do not change revenue from the sales tax in any way. Section 1 would state that the Tax Commissioner is to have access to information required under the New Hire Reporting Act. This act was an immigration control initiative designed to assure that newly hired employees are legal in the country. The department would like to access to the information for purposes of withholding. Section 2 would require the Tax Commissioner deny tax incentive benefits to any person that would otherwise be entitled to due the employment of a person who has been deported by the Immigration and Naturalization Service. If benefits have already been received due to the employment of such persons before they were deported, such benefits are to be recaptured. Section 3 through 5 would amend three sections of the sales tax statutes to insert the newly adopted uniform definition of "bundled transactions" under the streamlined sales and use tax agreement. Bundled transaction means the sale of two or more distinct and identifiable products at a single price. The definition contains a number of exclusions. Bundled transaction also does not include retail sales of taxable and exempt personal property if the exempt share is half or less of the total sale price. The reason this definition has been made part of the agreement is because there are provisions allowing retailers to impose a tax on the entirety of the bundled transaction containing taxable and exempt portions. Section 6 would amend Section 77-2701.35, the definition of "sales price" to specifically state that the sale price includes payments by a third party, typically manufacturing coupons. This has always been the policy in Nebraska, but the agreement requires that the definition be in place anyway. Section 7 would amend Section 77-2703 to specifically require that the sales tax be collected on the entirety of the bundled transaction where one or more of the products would be taxable if sold separately. Section 8 would amend the definition within the federal Mobile Telecommunications Sourcing Act, adopted by Nebraska by LB947 in 2002, to add

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many definitions approved by the governing bodies of the agreement. The definition includes 800 services, 900 services, coin-operated telephone services, and conference bridging services. Other definitions to be added is "telecommunications service." The definition is broad, but excludes data processing and information services, installation, tangible personal property, advertising, Internet access, radio and television broadcasting, or digital products. To reemphasize, these new definitions would be enacted only to keep Nebraska in compliance with the streamlined sales and use tax agreement. Nothing changes with regard to the taxability of any transaction due in this bill. Section 9 would allow the State Auditor to see sales records that are necessary for purposes of audits. The State Auditor is then included in the list of officers bound by the confidentiality provisions of the section. Section 12 would confirm...or would conform the state requirements with federal allowance of annual remission of withholding and require anyone filing more than 250 W-2s in a year to file them with the department electronically. Section 13 would allow a 5 percent penalty to be imposed by the department for international (sic) disregard of the rules...or intentional disregard of the rules, or material or negligent misstatements with regard to the overstated refund. Currently, this penalty is available only in cases of a deficiency assessment. A fraudulent, overstated refund would result in a 50 percent penalty. Other persons who aid in the overstatement of the refund would become subject to a \$1,000 penalty. Section 14 would eliminate the cap on bonds that may be required of businesses that may hold substantial trust funds for the state, such as sales tax or withholding. Currently, such bonds may not be greater than three times the estimated amount payable, or \$10,000, whichever is lesser. LB223 would eliminate the \$10,000 cap. For taxpayers who are habitually delinquent, the current maximum bond is five times the estimated annual liability, up to \$15,000. Again, the bill would eliminate that cap. Sections 15 through 20 amends the Nebraska Advantage Rural Development Act. Section 15 would define "livestock" as cattle, hogs, chickens, and turkeys. The committee amendment expands this definition to include horses, goats, sheep, and regulated game species. This section would also eliminate the definition of the "Nebraska employee" as a Nebraska resident employee. Along this line, Sections 17 and 19 would change the qualifications for benefits so that the new employees would not be required to be Nebraska residents. Section 16 would amend Section 77-27,187.02 to require applications for benefits under the act to be filed by November 1 and completed by December 1. If the applications fail to meet the deadlines, they would be considered to be the first filed the following year. Section 31 would make the same changes with regards to Nebraska Advantage Microenterprise Tax Credit Act. Section 20 would prohibit reallocation (sic) of businesses such as new business qualified to receive benefits under the act. Such prohibited transaction also include purchasing or leasing the assets of existing businesses, or any other activity entered into primarily for the purpose of receiving benefits which is without a business purpose, and any activity that results in benefits under the Ethanol Development Act. These restrictions are the same as what is currently contained in the Nebraska Rural Advantage (sic) Act. Section 21 would amend the nonresident registration contractors registration act (sic) to lower

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the exemption from \$25,000 to \$10,000. Under LB223, contracts worth more than \$10,000 involving a nonresident contractor would have to be registered with the Department of Revenue. Sections 22 and 23 would amend the Uniform Sales (sic) Tax Lien Registration Act to limit the disclosure of Social Security numbers of the persons liable on the lien to the last four digits. Section 23... [LB223]

PRESIDENT SHEEHY: One minute. [LB223]

SENATOR JANSSEN: ...would allow the three-year life of the Lien Registration Act under the act to be extended if the person is in bankruptcy. The lien would extend until six months after the assets are released by the court, or three years, whichever is later. Section 24 and 29 would amend the Employment and Investment Growth Act and the Nebraska Advantage Act to strike the "mainframe business computers" as eligible for personal property tax exemption, and insert "computer systems" instead. Computer systems would be defined as equipment that is interconnected to enable the acquisition, storage and manipulation and also a few other things, of data using the computer software and hardware. Also, Section 29 clarifies that the personal property exemption runs for ten years from the year the first property qualifies for exemption. [LB223]

PRESIDENT SHEEHY: Time, Senator. Yeah, you're currently on your opening, so... [LB223]

SENATOR JANSSEN: Okay. Thank you. [LB223]

PRESIDENT SHEEHY: (Visitors introduced.) We will now move to the committee amendment, AM192. Senator Janssen, you're recognized to open on the committee amendment. [LB223]

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. I do have a little bit more on the opening, so I can get that done with the...before I do the committee amendments. I'm sure I'll have enough time. Section 30 would change the tax credits that may be granted under the Nebraska Advantage Research Development Act. Currently, the credit is equal to 3 percent of the increase in research and development expenses deducted for purposes of the federal tax return. Under LB223, the credit would be 15 percent of the federal credit. Research, development tax credits was recently renewed by Congress and is available through 2009. Section 35 would repeal outright Section 77-2703.02. This section currently provides for the exemption of the multiple points of use as formerly required by the streamlined sales tax and use agreement. The requirements are no longer in force. Now, Mr. Speaker, I will go to the committee amendments. The committee amendments clarify a couple of provisions in the original bill regarding the state-maintained database for purposes of streamlined sales tax, use agreement and the overstated income tax refund that may be due to fraud. The second thing it does, it expands the definition of "livestock" for purposes of

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qualifying a livestock modernization facility for credits under the Nebraska Rural Development Act. The possibility of benefiting under this act was added by LB990, Senator Wehrbein's bill. The amendment expands the definition to include sheep, goats, horses, and game species regulated by either the Game and Parks or the Department of Agriculture. The committee amendments also add entirely new withholding requirements for businesses with 25 or more employees. Withholding for a state income tax purpose must be at least 3 percent of the employee's gross wages, not counting volunteer contributions to things like cafeteria health plans, deferred compensation, or other 529 plans. If the employee can produce evidence with lower withholding is justified by producing birth certificates or other evidence that he or she has more exemptions, then withholding is less than the 3...than the 3 percent is allowed. The committee amendments also improve the civil penalty for employees that fail to either withhold at least 3 percent or required by the employees to produce evidence of a need for less. The penalty would be at the discretion of the Tax Commissioner and could not exceed \$1,000 per violation. The committee amendments also create the penalty for employees who claim excess deductions with the intent to evade income tax. It would be a Class II misdemeanor. With that, that are the committee amendments, Mr. Lieutenant Governor, and I would answer any questions anyone may have. Other than that, I ask for the adoption of the committee amendments. Thank you. [LB223]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You have heard the opening to committee amendment, AM192. The floor is now open for discussion. Senator Janssen, you are queued in next. Further discussion on committee amendment? Senator Raikes. [LB223]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. If you look at the committee statement, I was not a supporter in committee of this bill and the reason relates directly to the committee amendment. As Senator Janssen explained, we expanded the list of animals eligible under the Advantage Act to include horses, among other animals. My concern is that this is meant to be a program to support businesses or emerging agricultural businesses so that they can get off the ground, become successful and so on. I don't feel that there is...I don't have comfort with the idea that we are accepting a pleasure horse recreational operation from receiving a grant with this addition. So my concern with the bill focuses on that expansion. I don't think the list of livestock operations involved in the Advantage Act should be expanded beyond what it currently is. Thank you. [LB223]

PRESIDENT SHEEHY: Thank you, Senator Raikes. Further discussion on committee amendment, AM192? Seeing none, Senator Janssen, you're recognized to close on committee amendments. Senator Janssen waives closing. The question before the body is, shall the committee amendment, AM192, be adopted to LB223? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB223]

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ASSISTANT CLERK: 26 ayes, 1 nay on the adoption of committee amendments, Mr. President. [LB223]

PRESIDENT SHEEHY: Committee amendment is adopted. We'll now return to floor discussion on LB223. Anyone wishing to speak on this item? Senator Janssen, you're recognized to close. [LB223]

SENATOR JANSSEN: Thank you, Mr. Speaker. Only to say that I believe that the bill is...it's a large bill, but the changes that are made are beneficial to the state of Nebraska and I would very much appreciate the advancement of this bill. Thank you. [LB223]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You've heard the closing. The question before the body is, shall LB223 advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB223]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB223]

PRESIDENT SHEEHY: LB223 does advance. Next item, Mr. Clerk. [LB223 LB441]

ASSISTANT CLERK: Mr. President, LB441 was offered by Senator McDonald. (Read title.) The bill was read for the first time on January 16 of this year, referred to the General Affairs Committee. That committee reports the bill to General File with no committee amendments. [LB441]

PRESIDENT SHEEHY: Thank you. Senator McDonald, you're recognized to open on LB441. [LB441]

SENATOR McDONALD: Mr. President and members of the body, I told you this was the McDonald division, so here we go again. This bill gives us the long overdue opportunity to show support for our state's wine and grape industries. It proposes that the shipping license fees for an S1 liquor licenses that the Nebraska Liquor Control Commission collects be directed to the Nebraska Winery and Grape Producers Promotional Fund rather than the General Fund. This direct shipping license placed in statute by LB671 in 2001 is required for those wineries that ship wine from another state directly to consumers in Nebraska. This direct shipping license came as a result of the evolving law concerning the three-tier system of alcohol distribution and the ability of wineries to ship their product directly to consumers rather than going through a wholesaler. Nebraska permits this direct shipping of wine if the out-of-state winery purchases the S1 license, which costs \$500. The number of S1 licenses issued has increased steadily since 2001 and the current number is around 140. This shipping license fee has been a windfall for the General Fund for the past six years. The cost to the Liquor Control

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Commission to collect the license fee is very minimal, as this shipping license fee that we collect is one of the highest when compared to other states. The license fee was set high due to a compromise between those who did and did not want direct shipping, and the thought that only a handful of out-of-state wineries would purchase it. They were wrong and now we have around 140 license holders. My point is that these funds were not anticipated. The funds are not vital to the Liquor Control Commission ability to administer the programs, and the General Fund has not relied on them for any significant amount of time. Using these fees for the purpose of supporting our grape growers and wineries is more than justified. The grape, winery producers promotional fund is the fund that was created for the state's grape and wine board. It provides about \$6,000 annually that comes from a tax on farm winery juice production, called the Crush Fund. This is the extent of the support the Grape and Winery Board directly receives. Over the interim, the General Affairs Committee and the Agricultural Committee studied issues relating to the wineries and vineyards in our state. It was clear to the committees that the most important objective of the industry is to find a sustainable funding source for research and marketing. Nebraska's wine industry has grown significantly over the past few years and will continue to grow. In 1996, there were two farm wineries, and in 2002 we had seven. Currently, we have around 80 vineyards and 18 wineries. Better and more depth research, education and quality promotion of what we have to offer is necessary to help facilitate this growth. The farm winery industry is the ultimate example of a value-added small business expansion. Many wineries, and especially vineyards, are located in rural areas and truly provide an economic boost in the form of tourism and employment in the production of locally grown grapes and other fruit. We need to support the industry, not only because of what it can do for these agricultural operations and small business owners, but because of the benefits to the state that would come by...that would come by drawing more visitors here. Other states have invested in their grape growing and winery industries. I have handed out a chart of a study that a national wine trade association has been doing which shows the extent that other states provide support to their wine and grape industries. The chart is not complete, but you can see from the information gathered so far that the other states provide substantial amount of financial support. By looking at what has happened in other states, we have learned that when funding is provided states benefit in the form of rural economic development, jobs, tourism, all of which lead to an additional benefit. Economic impact studies that have been done in other states show that a thriving grape and wine industry can do. For example, in Michigan, wine industry provides a \$75.4 billion impact to the state and employs more than 1,000 people. In Missouri, nearly 1.5 million tourists visited the 41 wineries each year, and other studies done in midwest states have shown that every \$1 spent in local wineries, another 75 cents to \$1 is spent locally. This financial support would be used for research in partnership with entities such as the University of Nebraska, which has a viticulture program that can be tremendous research for the benefit of Nebraska wines and grapes. There is a great deal of research that needs to be done to help our vineyards. Those in the industry have mentioned studies on soil, weather, disease, hybrids, nutrients and so on, and are vital

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to the success of these crops. This funding would also be used for marketing promotion. Those in the industry have great ideas and are working to build partnerships with organizations that can rely on tourism, such as the bed and breakfast industry. They work together to find opportunities for marketing and promotion, and need this boost to help themselves. The Grape and Winery Board, and the Winery and Grape Growers Association have been working on their own economic impact study that shows the positive impact potential for the industry of our state. Funding would help these groups compete to be a more comprehensive study. The groups that have collaborated in the past on the creation of a winery and vineyard map of Nebraska has been well-received. It is a great tool to attract tourists that...and is constantly being updated. The industry has done so much that they can with the resources that they have. This bill would give them the boost they need to take this industry to the next level. Thank you. [LB441]

PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the opening to LB441. Mr. Clerk, do you have an amendment filed at your desk? [LB441]

ASSISTANT CLERK: Mr. President, I do. Senator McDonald would offer AM320. (Legislative Journal page 632.) [LB441]

PRESIDENT SHEEHY: Senator McDonald, you're recognized to open on AM320. [LB441]

SENATOR McDONALD: Thank you, Mr. President. Looking at the bill that I introduce, I thought that it might be important to put a sunset on the length of time that these funds would be diverted. This amendment puts a sunset date on the transfer of these license fees to the Grape and Winery Board. It allows the transfer to occur until 2012 so that the annual license fee can be utilized by this board for a period of five years. I introduce this amendment for a couple of reasons. One is to acknowledge a concern of those who are concerned about the permanently diverting money from the General Fund; and two, the wine and grape folks thought the limitation was a good idea because that they had asked for hoped was a boost. They believe that this will help them get to the next level and then they will be able to sustain themselves. I am certain, as they are, that this time-limited help will result in great benefits to the state's economy. I am excited to see this industry grow and see that it will...what it will do for our state, and I hope you will join me in supporting the farm wineries. Thank you. [LB441]

PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the opening on AM320. The floor is now open for discussion. Senator Hudkins, followed by Senator Janssen. Senator Hudkins. [LB441]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I will be supporting both this amendment and the bill. I am very fortunate in that I have a winery in my district just a few miles east of Raymond, Nebraska. As Senator McDonald said,

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we have 18 wineries currently operating with at least 3 more in the process of coming on line. Before prohibition, Nebraska was the sixth largest in grape production, but because of prohibition, the fact of the weed killer 2, 4-D, the fact that we were in a Depression and the federal government said plow up your grapes and plant corn and we'll pay you, that grape acreage went practically to zero. Now you all know that we have some very good, fertile soils in Nebraska, but grapes don't necessarily like nor need fertile soils. They can grow just as easily on an old clay hillside. As long as they have the right soils and some rain, they can grow. This is an important bill because the grape and wine people are trying to fund their own research. They are already paying a fee for the amount of the tons of grapes that their wineries process. They are already paying a fee for the gallons of wine that they produce, and they have done this on their own volition with the money going toward research, promotion, and development. This particular bill would take the licensing fees that other states have to pay in order to ship their product into Nebraska. That money would also go toward research and development and, as the amendment says, only for a period of five years. Growing grapes is a form of agriculture. It's an alternative form of agriculture, because there's no way that one family can grow 160 acres of grapes, for example. The equipment that you have to have to grow corn is very, very expensive. A tractor, typically priced, medium-line tractor, can be \$80,000 and above. A combine to harvest that corn can be easily \$200,000. But if you have an acre of ground with not real great fertility or whatever else and you don't have the money for the combines and the tractors, you can hand plant your grapes, an acre or so, enlist your kids and your neighbor kids and everybody else to help you prune and harvest. You can get a pretty decent income out of a few acres of grapes. The fiscal note says that it will be an expense to the state. Well, initially perhaps, because the money that is currently coming in from these fees is going to the General Fund. But if you look at further down the road, when there are more wineries on board and there is more tourism, there are people that do love to go to different states to sample the local wines, and that's their privilege. Let's let them come to Nebraska and sample what we have here. It is, like I said, an alternative form of agriculture. It is also a value-added crop. You take a handful of grapes or a bushel of grapes and you're not going to get a whole lot for it--whatever you would expect to pay for grapes... [LB441]

PRESIDENT SHEEHY: One minute. [LB441]

SENATOR HUDKINS: ...at the grocery store. But if you can convert that grape product or the apple juice or the other components of a specialty wine, you can charge more. People are willing to pay it. It is a value-added product. So I think that transferring this fee for five years to the grape and wine foundation board for research is a very good thing to do. Thank you, Mr. President. [LB441]

PRESIDENT SHEEHY: Thank you, Senator Hudkins. Senator Janssen. [LB441]



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SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, Senator McDonald gave a good opening on the intent of the bill. I wanted to talk a little bit about the \$500 shipping permit, where the funds to fund this program will come from, and I remember back several years ago when we initiated that shipper's license. Prior to that, we didn't have any paper trail on where the wine was coming from. You could order it over the Internet and so on, and it would end up here in Nebraska with no taxes being paid or anything. So this way you, with the shipping license, you had a paper trail on where the wine come from and at that time several of my constituents were saying, I'll never be able to get my favorite wine, you know; you people are imposing a \$500 shipping license on these wineries in California or Connecticut or wherever they were at. Well, it didn't happen. Those people did buy the shipping licenses and the wine came into this state with some revenue. At least they had to pay the \$500 shipping license. And I'm seeing it now helping to improve our own industry in this state by moving those funds over to the enhancement of the grape growers in this state. And Senator Hudkins was correct when she said at one time Nebraska was a very viable grape-growing state, and with a little promotion and help from these funds that will be going to promotion of the wine industry in this state, I think it's a great thing. It's a good bill. It's putting those...that \$50,000, which will grow. I mean there are other wineries that want the market in this state also, and they can do so if they buy that shipping license. So it's a good bill and thank you, Senator McDonald, for bringing it to us. I am in full support of it. Thank you. [LB441]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Further discussion on AM320? Seeing none, Senator McDonald, you're recognized to close. [LB441]

SENATOR McDONALD: I ask the body to support this amendment. This actually takes my bill, but it has a sunset on the funding for just five years and I think that's enough time to create the research that needs to be done to take our wine producers to have a quality type of grape that can withstand our winters, that can adapt to our Nebraska soils, the nutrients and the insects and things that we have here, and hopefully from that we will have a better tasting product to distribute anywhere in the United States and beyond. Thank you. [LB441]

PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the closing. The question before the body is, shall AM320 be adopted to LB441? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB441]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of Senator McDonald's amendment. [LB441]

PRESIDENT SHEEHY: AM320 is adopted. The floor is now open for discussion on LB441. Senator McDonald, you're recognized to close. Senator McDonald waives closing. The question before the body is, shall LB441 advance to E&R Initial? All those

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in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.  
[LB441]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance, Mr. President. [LB441]

PRESIDENT SHEEHY: LB441 does advance. Next item, Mr. Clerk. [LB441]

ASSISTANT CLERK: Mr. President, LB441A, introduced by Senator McDonald. (Read title.) [LB441A]

PRESIDENT SHEEHY: Senator McDonald, you're recognized to open on LB441A.  
[LB441A]

SENATOR McDONALD: Mr. President, now that we've passed the bill with the amendment and know where the funds are coming from and where we're diverting them from, we have to consider the A bill that goes with it. And I learned a long time ago from Senator Chambers that you never support a bill if you're not going to fund it, so this is exactly how this is done. So hopefully we'll follow through with that same concept here. LB441A would allow the Grape and Winery Board to extend the...expand the additional revenue received into the grape and winery products (sic) promotional fund as a result of LB441. The Winery and Grape Producers Promotional Fund is expended by the Nebraska Grape and Winery Board through the department of agricultural's (sic) budget. Because this cash fund currently receives approximately \$5,000 in revenue annually, an increased cash fund expenditure authority will be needed so the grape...Nebraska Grape and Winery Board may expend the additional revenue received as a result of LB441. LB441A would increase the cash fund expenditure authority by the \$69,500 in the year 2007 to 2008, and to \$99,500 in the year '08-09, and that's if the shipping fees stay as they are and maybe increase as they have. As funding would be to operate, the costs in additional staffing would not be needed to fund this bill. So this basically allows the dollars that were sent to the General Fund to be able to go to the promotional fund that we passed in LB441. Thank you. [LB441A LB441]

PRESIDENT SHEEHY: Thank you, Senator McDonald. You've heard the opening to LB441A. The floor is now open for discussion. Anyone wishing to speak on this item? Seeing none, Senator McDonald, you're recognized to close. Senator McDonald waives closing. The question before the body is, shall LB441A advance to E&R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.  
[LB441A]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President.  
[LB441A]

PRESIDENT SHEEHY: LB441A does advance. Mr. Clerk, do you have items for the

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record? [LB441A]

ASSISTANT CLERK: Mr. President, I do. Amendments to be printed to LB286 by Senator Fischer, and to LB374 by Senator Wightman. New resolution, LR37, offered by Senator Hudkins and others. With the introduction of LR37, I do have a communication from the Speaker regarding reference to the appropriate standing committee. That's all I have at this time. (Legislative Journal pages 644-646.) [LB286 LB374 LR37]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Next item under General File. [LB470]

ASSISTANT CLERK: Mr. President, LB470, introduced by Senator Chambers. (Read title.) The bill was read for the first time on January 17, referred to Judiciary Committee. That committee reports the bill to General File, there are no committee amendments. [LB470]

PRESIDENT SHEEHY: Thank you. Senator Chambers, you're recognized to open on LB470. [LB470]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there's a song, the lyric of which I will not sing, but it says, "They call me a dreamer; well, maybe I am." But I'm not such a dreamer that I think we can dispose of this bill in the 12 or 13 minutes we may have left. So rather than go into an involved explanation which I would have to repeat tomorrow anyway to bring people up-to-date, I'm going to make some general comments and I will repeat them tomorrow also. This bill is about fairness and justice on the part of the state toward innocent people. I worked with the city prosecutor of Omaha to contrive this bill. He has received many requests from people because there will be a notation of arrest behind this person's name, which is a matter of public record, even though the person is innocent, perhaps no charge was ever filed. If the charge was filed, it was dismissed before trial because there was not enough evidence. A person would enter a diversion program, never be taken to trial, never would there be a finding of guilt. So in effect, the people affected by this bill are all innocent. But even though there are procedures which will allow a person convicted of a crime to have that record expunged, a person can get a pardon, as strange and ironic as it may seem, there is no way under the law of Nebraska for an innocent person to have a notation of arrest removed from his or her record. Because of that individual's innocence, he or she thinks that he or she has a clean record, which any ordinary person would believe. Years later, and this is how it usually comes to their attention, they will be applying for a job. Now that background checks are made for almost every job, it comes up and they immediately are no longer considered for the job. Explanations mean nothing because the presumption of innocence applies only in the courtroom, and not always there. In the minds of most people in this society, you would not have been arrested if you hadn't done something wrong; you would not have been charged if you were not guilty. But this is often what leads to the injustice that this bill is designed to correct. It would say that

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after a certain period of time that notation no longer is a matter of public record. It would not be erased forever. The courts would still have access to it; law enforcement would still have access. These two tracking methods are maintained independently of each other. Because of that, the prosecutor pointed out that there is no cost entailed in doing this. They simply drop this person's name from the system so that when a background check is made that doesn't show up. Be thinking about the A bill. I'm not going to try to get a vote on anything this morning because I want this to be thoroughly explained on the record. However much time people want to discuss it will not offend me. Any questions that develop, I hope you will ask them so we can spread these questions on the record and I can give an answer so that we will have it clear from this day forward, or the day when this bill becomes law--and I hope I can persuade you to support it--it will be obvious that the legislators knew what we were dealing with. We knew the nature of the action we will be taking, and we intended to take that action. Nothing in this bill applies to anybody who is guilty. It applies to nobody who has been convicted. It applies only to those people who under the law are innocent. But that notation will remain on their record forever. But if you committed a crime, there are ways for you to have your record expunged. There is more consideration under the law right now given to the guilty than to the innocent. Another thing I hope you'll look at is that A bill, which I think is exorbitant. The State Patrol is saying it would cost them a half a million dollars to do this, although they're doing it already. They're required, under the present law, to drop these people's name from this list, and to some extent they're doing it. I think it's an attempt to use this bill as a backdoor way to get \$500,000 to do some updating of their computer infrastructure. If the city of Omaha, where a lot of arrests are made, where a lot of people will be affected by this, do it without additional cost, I don't think the State Patrol needs that money. But once an agency submits a fiscal note that has an amount of money in it, the introducer of the bill has to have an A bill drafted with that amount of money. So when we get to the A bill we will discuss that, and I don't think that amount of money is needed. In fairness to the State Patrol, I was told by the individual who works with the Legislature that that amount was given by a software company which would do this work. I said, well, they think the state has deep pockets so they're going to charge you anything you think...anything they think they can get. But I'm opposed to that \$500,000. That is not needed. But again, I'm speaking in general terms today because I'm going to have to go through all of it again tomorrow. But if anybody has a question which maybe we can get in and I can answer before we recess or adjourn, I'm prepared to do that. Thank you, Mr. President. [LB470]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the opening to LB470. Senator...Senator Friend. [LB470]

SENATOR FRIEND: Thank you, Mr. Lieutenant Governor and members of the Legislature. I wasn't sure exactly what was going to happen there, but I will proceed briefly and then I think, obviously, we're up against the clock here. But I'll probably have to touch on some of this again tomorrow. Senator Chambers raised the point in his

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opening that he is not necessarily sure that something like this is going to move with great alacrity. I think he's probably right and I think it's probably because I think this bill can be partitioned, and let me quickly explain that. There are...there are public policy implications, obviously--let's take those two partitions--public policy implications with the piece changing our criminal code. Let me set that aside for a second and let me talk about something that will probably come out on the floor tomorrow, and I did mention this to Senator Chambers on a couple of occasions yesterday, or at least one occasion, is that there is a \$500,000 fiscal note to this that seems somewhat intriguing, I guess, but confusing to me a little bit. Now I'm sure that there are reasons that something like that, that a fiscal note like that would be deemed to be necessary with functional changes that LB470 requires. But that doesn't preclude any of us out here from arguing in regard to those numbers, or trying to come up with specific facts in regard to those numbers. The point is, I was going to ask Senator Chambers some questions, but I think, God willing, you know, I'll probably be here tomorrow and I think that we'll have some opportunities to delve in to that second partition that I was talking about. I'd even actually like to delve into the first partition that I like to call it also, but we'll have some more of that opportunity tomorrow. I didn't want to waste anybody's time here, but I just wanted to alert folks to the idea that there is...that I have some concerns about it. I have some concerns about the fiscal note, not that I don't want to give the State Patrol or not that I want to give law enforcement more money. I do. On various occasions, I do. We need to figure out why we're doing this on this particular occasion. With that, Mr. President, I would...with that, Mr. Lieutenant Governor, that's all I'd have, I think. Thank you. [LB470]

PRESIDENT SHEEHY: Thank you, Senator Friend. Mr. Clerk, do you have announcements and items for the record? [LB470]

ASSISTANT CLERK: Mr. President, one item: Senator Mines would ask to add his name to LB124. (Legislative Journal page 646.) [LB124]

I do have a priority motion. Senator Janssen would move to adjourn until Friday, February 23, 9:00 a.m. []

PRESIDENT SHEEHY: Senator Janssen, motion is to adjourn until Friday, February 23, 2007, at 9:00 a.m. All those in favor say aye. Opposed, nay. We're adjourned. []