

we pass this legislation the Attorney General himself might state to the Nebraska Department of Public Welfare not to implement the legislation. Why? Because it is clearly unconstitutional. Now if we give that Attorney General the severability clause, he might even say, "Well, we could even afford to risk not implementing this legislation because in the end should our point of view be sustained under the severability clause why the whole piece of legislation is not in any way, shape or form in jeopardy. I, frankly, at this point don't want to give the Attorney General that, even that little possibility of directing the Nebraska Department of Public Welfare not to implement the legislation. I could guarantee you what would happen, incidentally, if the legislation were not implemented. Somewhere along the line some pregnant woman would go in and apply for ADC benefits which we would have provided for by statute, she would be denied those benefits because the legislation was not being implemented, and she would bring an action for herself and probably for all other unborn children then in utero, and then with poor women, it would be a class action nature designed to get the benefits to which they are entitled by virtue of our statutes. Now I don't think any poor woman should be put to the trouble of having to litigate the issue. The issue once we have passed upon it very simply it ought to be the law and that ought to be it. To me putting the severability clause in (a) is not necessary and (b) if it is put in might even provide some little additional incentive for our Attorney General to direct our Nebraska Department of Public Welfare not to implement legislation which you and it, as a collective body, thinks should be implemented. So for that reason I would hope that the Warner amendment is defeated.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I have guess we have come about a full three hundred and sixty degrees now. I have heard all the various reasons on the severability clause. I am glad I stuck around this evening. I think that there is some reason, at least, to support the Warner motion for the severability clause because it does indicate to the federal government and to the Attorney General that there is deep concern about whether or not Section 3 of the bill is in fact enforceable. We do not believe it is. I do not believe it is. I have emphasized that point time and time again. I also want to point out that I agree again with Senator Warner that it is impossible to sit here in a few hours or an hour and a half and draft legislation which is letter perfect. We have been told in effect under Section 3 to build a house and we have not been told what materials to use; well, we have been told to a degree how long we had to