

January 18, 1989

LB 53, 57, 123, 537-597
LR 8-12

Mr. President, new bill. (LBs 537-538. Read for the first time by title. See page 268 of the Legislative Journal.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: The Chair is pleased to announce that Senator Jacklyn Smith of Hastings has visiting the Legislature today Dr. Robert Schlock and 20 students from Hastings College, specifically, psychology and law class, in the east balcony, the rear balcony. Dr. Schlock, would you and your students please stand and be recognized by your Legislature. Thank you. We are pleased to have you visiting with us today. Also under the north balcony from David City High School, Senator Schmit announces the following guests, 8 students from David City High School with their teacher. Would you folks please stand and be recognized. Thank you for visiting. We are glad to have you. Mr. Clerk, more bill introductions, please.

CLERK: Mr. President, first of all, your Committee on Urban Affairs, whose Chair is Senator Hartnett, to whom was referred LB 53, instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File; LB 57 General File; LB 123 General File, all signed by Senator Hartnett as Chair of the committee.

Mr. President, new bills. (LBs 539-557 read for the first time by title. See pages 269-72 the Legislative Journal.)

SENATOR HEFNER PRESIDING

SENATOR HEFNER: Mr. Clerk, do you have some more bills to introduce?

ASSISTANT CLERK: Yes, I do, Mr. President. (LBs 558-593 read for the first time by title. See pages 273-81 of the Legislative Journal.)

SENATOR HEFNER: Do you want to read the bills into the record?

CLERK: Yes, Mr. President, thank you. (LBs 594-597 read for the first time by title. See page 281 of the Legislative Journal.)

Mr. President, in addition to those items, I have new resolutions. (Read a brief explanation of LRs 8-12. See

February 7, 1989

LB 413, 587, 644

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our Chaplain of the day, Reverend Gordon Scott of the Crestwood Christian Church in Lincoln. Would you please rise for the morning prayer.

REVEREND SCOTT: (Prayer offered.)

PRESIDENT: Reverend Scott, thank you for giving us the morning prayer. We appreciate it very much. Roll call, please. You wish to come to the Legislative Chamber promptly because we are going to be starting on Final Reading in a few moments and I'm sure you will not wish to miss votes if you are present in the building.

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

PRESIDENT: Thank you. Do you have any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs reports LB 644 as indefinitely postponed. That is signed by Senator Baack. Business and Labor Committee whose Chair is Senator Coordsen reports LB 413 as indefinitely postponed, signed by Senator Coordsen as Chair. Mr. President, your Committee on Natural Resources whose Chair is Senator Schmit reports LB 587 to General File with committee amendments attached and that is signed by Senator Schmit as Chair. And that is all that I have, Mr. President. (See pages 611-13 of the Legislative Journal.)

PRESIDENT: We'll move on to the confirmation report of Senator Schmit's.

CLERK: Mr. President, Senator Schmit as Chair of the Natural Resources Committee would offer a report on the appointment of Mr. N.P. Dodge, Jr. to the Power Review Board. The report is found on page 603 of the Journal.

PRESIDENT: Senator Lamb, can you take that? I don't see

postponed.

Senator Haberman has a series of amendments to be printed to LB 587, Mr. President. (See pages 896-99 of the Legislative Journal.)

Mr. President, I have four gubernatorial appointments. That will be referred to Reference for purposes of referring to the appropriate Standing Committee for confirmation hearing. (See pages 900-02 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Moving then to General File, senator's priority bill, Mr. Clerk.

CLERK: Mr. President, LB 183 is a bill that was introduced by Senator Baack and Senator Bernard-Stevens. (Read title.) The bill was introduced on January 5, referred to the Education Committee. The bill was advanced to General File, Mr. President. The committee amendments and the bill were considered on February 22nd. At that time, there was an amendment to the committee amendments by Senator Baack that was adopted, a second amendment by Senator Baack to the committee amendments that was adopted, a third and a fourth and a fifth and a sixth. Mr. President, when we left the bill, Senator Lamb had pending an amendment to the committee amendments. Senator, I have your amendment. It's on page 813 of the Legislative Journal.

SPEAKER BARRETT: Senator Lamb.

SENATOR LAMB: Yes, Mr. President and members, I have these amendments which are in the Journal and, as the Clerk pointed out, on page 813. I have not circulated them otherwise. So I would ask that you may wish to turn to the Journal page 813 and we're on number two, the middle of the page, AM0472, where it strikes "one school year" and inserts "four school years" and this, in essence, says that the student would be committed to attend the school to which he wants to transfer for four years. This is designed...this is a...well, this amendment is a continuing effort to show that this bill has not been adequately researched, has not been adequately studied. There has not been sufficient thought gone into this bill and so these series of amendments...and I have these six amendments and we're on number two, I apologize for the length of time we have spent on the

March 6, 1989

LB 87, 318, 340, 362, 362A, 390, 440
489, 541, 545A, 563, 587, 605, 661
687, 728, 793, 809
LR 16, 44, 45

SPEAKER BARRETT: With your permission, perhaps the Clerk could read some items in before we take a vote, Senator Goodrich? Thank you.

ASSISTANT CLERK: Mr. President, your Committee on Business and Labor, whose Chairperson is Senator Coordsen, reports LB 541 to General File with amendments; LB 605, indefinitely postponed. Committee on Enrollment and Review reports LB 318 as correctly Engrossed; LB 362, LB 362A, LB 440, LB 489. (See pages 993-97 of the Legislative Journal.)

New resolutions. (Read brief descriptions of LR 44 and LR 45 for first time. See pages 997-98 of the Legislative Journal.)

I have a notice of committee hearing from the Business and Labor Committee on gubernatorial appointments. Your Committee on Revenue, whose Chairperson is Senator Hall, reports LB 793 to General File; LB 390, indefinitely postponed; LB 563, indefinitely postponed; LB 661, indefinitely postponed; LB 687, indefinitely postponed; LB 728 and LR 16CA, indefinitely postponed. (See page 998 of the Legislative Journal.)

I have amendments to LB 587 from Senator Schmit to be printed; and from Senator Pirsch to LB 87. New A bill, LB 545A, from Senator Baack. (Read by title for the first time. See page 999 of the Legislative Journal.)

Amendments to be printed to LB 340 from Senator Chambers. Unanimous consent request from Senator Pirsch to add her name as a co-sponsor of LB 809, and an announcement from Senator Rod Johnson that the Agriculture Committee will meet in a brief Executive Session under the north balcony, immediately following adjournment today. That's all that I have, Mr. President. (See page 1000 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. You've heard the motion to adjourn offered by Senator Goodrich. Those in favor say aye. Opposed no. Ayes have it, motion carried. We are adjourned until tomorrow morning.

Proofed by:

Marilyn Zank
Marilyn Zank

March 8, 1989

LB 132, 587

then have it come back the next year as a reimbursement back to that fund. This would create a cash fund, it would be easier to plan. Their workload is growing in this area, and this simply creates that cash fund to make it more self-sustaining. Simplifies the bookkeeping.

PRESIDENT: Thank you. Any further discussion? If not, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 132.

PRESIDENT: LB 132 is advanced. LE 587.

CLERK: Mr. President, LB 587 was a bill that was introduced by Senators Schmit, Baack, Weihing, Robak, Morrissey and Wehrbein. (Read.) The bill was introduced on January 18 of this year, Mr. President. At that time it was referred to the Natural Resources for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Natural Resources Committee.

PRESIDENT: Senator Schmit, you want to take the amendments first, or the bill first?

SENATOR SCHMIT: Mr. President, I would take the committee amendments at this time and explain them.

PRESIDENT: (Gavel.) Could we please have it quieter so we can hear the speakers. Thank you.

SENATOR SCHMIT: The committee amendments are very simple. They....The original language of the statute calls for board members of the Ethanol Authority to be drawn from the membership of the corn, wheat and sorghum check-off board. It was felt by a number of the farm organizations and the farmers who came before us that this ought to be less restrictive and that any individual who is a grower of one of those commodities ought to be available for appointment to that board. It also provides a method whereby the candidates for appointment to the board may place their names on the candidacy list by getting at least 50 growers from each...from any crop to sign a petition on their behalf. This is consistent with the method whereby those appointments are made to some of the other boards, and I think

it does provide for a more broad representation on the Ethanol Authority Board. I move for the adoption of the committee amendments.

PRESIDENT: Any discussion on the committee amendments? If not, the question is the adoption of the committee amendments. All those in favor vote aye, opposed nay. We're voting on the committee amendments. Please record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

PRESIDENT: Mr. Clerk, you have an amendment? Senator Schmit, did you wish to explain the bill briefly before we take up the amendments?

SENATOR SCHMIT: Yes, I believe I should...

PRESIDENT: All right.

SENATOR SCHMIT: ...Mr. President and members, not only for the enlightenment of Senator Haberman, who wants to amend the bill somewhat, but also because I think I owe it to all the rest of you. It has been 18 years since I brought the first bill to this body that was the forerunner of what has become an ethanol industry here in the State of Nebraska. I want to remind some of you that when that bill was first presented, LB 776 in 1971, the idea that there would ever be an ethanol industry was widely ridiculed. It was also emphasized by the petroleum industry that there would never be such an item for sale as unleaded gasoline, that that was a figment of the imagination. They also said that, if Schmit's bill became law, it would raise the price of gasoline by 3 cents a gallon and the public would never stand for it. At that time I was paying 29 cents for a gallon of gasoline delivered to the farm, tax included. We all know what has happened since that time. The purpose of the bill, 587, is consistent with a promise that I made a number...to a number of individuals in the Legislature and to then Governor Kerrey when LB 1230 was enacted into law several years ago, that is that I was not opposed to broadening the responsibility of the Ethanol Authority to include the utilization of the by-products from the generation process of distillation and also, in fact, maybe even to encourage the development of industry that might have...add this by-product, the alcohol itself. For example, Senator Hefner has LB 325, a bill which is designed to encourage the

development of a plastic industry based upon some utilization of cornstarch. Of course that will require, if we develop that to the maximum extent of the...as is envisaged by Senator Heiner, the utilization of many, many millions of pounds of cornstarch and somehow or other that could, of course, be consistent with the development of an ethanol industry. The livestock industry is becoming more and more interested in the utilization of distillers wet grains as a feed. We recognize that Nebraska has, from time to time, shown signs of strength in the livestock industry. We recognize that Iowa Beef Products is going to utilize the facility at Lexington that will slaughter 4,000 cattle a day. There have been individuals who have come to Nebraska in the last several weeks and visited with myself and others about bringing additional feedlot capacity to Nebraska, and some of them are directly interested in tying into the existing plant at Hastings where they can utilize the distillers dry grains out there, or else to utilize the construction of an alcohol facility where they can utilize the slurry and the distillers wet grains as a feed stock for the livestock. I want to point out also that I have here a memo from the President to Governor Sununu who is his chief advisor from the White House, it's on White House stationery. It says, please ask our policy people to get the various departments geared up so that we can move ahead on ethanol. I have a number of other similar kinds of pieces of evidence which I think indicate that the ethanol industry is a very viable industry, one which is growing. I want to point out again that Nebraska sits in a very desirable position. We are the western most area of the corn belt and we are on the eastern end of an area, such as Denver, Albuquerque and Phoenix, a number of the cities which have trouble with clean air, therefore we are going to be the most likely provider of...

PRESIDENT: (Gavel.) Could we please have it more quiet so that we can hear the speakers. Thank you.

SENATOR SCHMIT: Appreciate that, Mr. President, because, if they are not going to listen to me, I hope they don't listen to Senator Haberman either. But anyway to get on with my argument, the point is that we are in a position to be the principal producers, not only of ethanol, but of an ether additive, ETBE, which is going to be utilized in many of our cities as an additive for what we call oxygenated fuels. Now we can either proceed to develop that industry, or we can take a back seat to the methanol industry and the coal industry which have, in fact,

made a definite commitment to try to develop MTBE which is a derivative of methane and which can be produced from coal. So agriculture can continue to work on this process and try to develop that market, or we can take a back seat and let the industry, the coal industry, the petroleum industry supersede us. I think that this bill emphasizes again the development of by-products, the development of the co-generation possibilities and the fact that ethanol may, in fact, in some instances be even a by-product for some of the other products that are developed through this industry. It's been a long time, 18 years, since we've been working on this. As I said earlier, there were people who ridiculed the idea. But today...

PRESIDENT: (Gavel.) Please, ladies and gentlemen, we're having difficulty hearing. Please hold it down. Thank you, Senator Schmit.

SENATOR SCHMIT: Today approximately one-third of all the unleaded gasoline sold in Nebraska is a blend of ethylalcohol and gasoline. As we look toward the future we are going to see those numbers increase. We are particularly going to see a large growth in the development of the ETB industry, and we think that we ought to take advantage of that. Many of you, over the years, have participated in these programs. Many of you have watched the industry grow. And I think that what we are doing here today is consistent with the idea of increased economic development for all of the State of Nebraska and increased market opportunities for the agricultural production of the State of Nebraska. I make no secret of the fact that I do not subscribe to the theory that agriculture is outdated in Nebraska. I still believe that the agricultural production of this state, both commodities and livestock, is more important than the industrial development we have seen in the last few years, although I do not downgrade the importance of trying to improve that. But the business of Nebraska is commodities and livestock, it always has been and it always will be. And to the extent that we can enhance that development, we should do so. LB 587 is a tool in the enhancement of those major industries, and I think the bill should be advanced. I want to say this, I have reviewed the amendments proposed by Senator Haberman, and I do not object to some of them. Many of the proposals he has embodied in his amendments are being taken care of today by the authority. I have several amendments which I will propose to his amendments, and I showed them to him several days ago. He will comment upon them himself. But I hope that you will bear

with me on this bill. This is an important bill, ladies and gentlemen, it is a bill which is of a lot of importance to the State of Nebraska, it is a bill which is of no personal importance to me insofar as pride of authorship is concerned, but it is important to me as a farmer and a citizen of the State of Nebraska. I hope that you will advance the bill.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. An amendment on the desk, Mr. Clerk.

CLERK: Mr. President, the first amendment I have is by Senator Haberman. Senator, this is AM603 that is found on Journal page 896.

SPEAKER BARRETT: Senator Haberman, please, on your amendment.

CLERK: This is the one, Senator, it says...(Read Haberman amendment.)

SENATOR HABERMAN: Okay. Mr. President, members of the body, as has been stated the grain shall mean wheat, corn and grain sorghum. Well now the wheat, corn and grain sorghum producers were the individuals that funded the Ethanol Authority and Development Board, and so they should be the one that benefit by having their grain purchased by this fund of \$1.7 million. Now I don't see how anyone can be taxed under the assumption that their tax money is going to be used to help the Nebraska farmer and use his grain. That was the intent when we started out. And the intent was a good intent and it is a good intent, and this body bought that fact that we're going to use Nebraska grain, we're going to help the Nebraska farmer. So what this amendment says is that's the grain we're going to use. The original legislation that created the Ethanol Authority expanded the use of Nebraska agriculture products. Efficient and less polluting energy sources and reserves, which will make Nebraska more independent energy wise and which will retain Nebraska dollars in Nebraska's economy which creates additional jobs, additional tax income to the state rather than the export of Nebraska dollars. So I'm going to rest my case on that now. Maybe Senator Schmit has some good reasons why we shouldn't use just Nebraska grain. And I will be pleased to listen to Senator Schmit's reasons and go on from there. Thank you, Mr. President.

SPEAKER BARRETT: Mr. Clerk.

CLERK: Mr. President, Senator Schmit would move to amend Senator Haberman's amendment by striking the language "produced in Nebraska."

SPEAKER BARRETT: Senator Schmit, on your amendment to the amendment.

SENATOR SCHMIT: Well, Mr. President and members, I have no objection to Senator Haberman identifying the three commodities, wheat, corn and grain sorghum, as the commodities which should benefit from this program, because historically of course oats and soybeans do not participate. So I see nothing wrong with identification of those three commodities. But I do think it's necessary to strike the three words "produced in Nebraska" because it is impossible to determine one kernel of corn from another, one kernel of wheat from another once it's delivered to a Nebraska elevator. Senator Haberman, particularly from his part of the state, is going to find some grain delivered to Nebraska elevators from Kansas, and maybe even from Colorado. I want to point out that if the grain is delivered there, it pays the tax there, regardless of the point of origin. So, if it pays the tax, then I do not see what the difference is to Senator Haberman whether or not it is produced in Nebraska or not. I would like to remind you that years back, when we created the various checkoff boards, we tried to be definitive about grain produced in Nebraska, and we finally decided that you couldn't identify, to any degree of certainty, grain that was produced in Nebraska as opposed to grain that was produced somewhere other than Nebraska. I agree with Senator Haberman that Nebraska was the leader in this program, that we ought to try, to the maximum extent possible, to benefit grain producers in Nebraska. But I believe that the present bill, with the Haberman amendment as amended by the proposed amendment that I have offered, does that. I would hope that you would adopt my amendment to Senator Haberman's amendment, identify the three classes of grain that would be cooperating in this program. But to delete the three words "produced in Nebraska", because it is simply not possible to identify those grains and be certain about it. It's going to be ignored anyway, if you put that language in the statute, why should we cause any concern for elevator operators who are not going to be able to know where the grain originated from. As you all know, many farmers who

live near the state line farm land on both sides of the state line. We should certainly encourage them to market in Nebraska as much as possible. As I said, once it's dumped in Nebraska it pays the tax and therefore I think it's entitled and qualified to take any benefits that might accrue from this program. I move for the adoption of my amendment to Senator Haberman's amendment.

SPEAKER BARRETT: Thank you. Discussion on the Schmit amendment to the amendment? I have a number of lights on here. Senator Rod Johnson, would you care to speak to the Schmit amendment?

SENATOR R. JOHNSON: Yes, Mr. Speaker, I would. I rise to support Senator Schmit's amendment. I think we will take an awful lot of time this morning to discuss the entire issue of the Ethanol Authority and its successes or its failures. I would just like to point out to the body I've had several members come up and say, is this a good bill? I think it is. I think it helps extend the life of the Ethanol Authority. I think that they are on the edge of making some significant contributions to the ethanol industry. And it is my opinion we need the ethanol board to continue to operate and hopefully begin the development of future plants and products to be developed right here in Nebraska. Now we have a variety of amendments being proposed by Senator Haberman and Senator Schmit. I would suggest the body pay close attention to those amendments because some of them will have a substantial impact on the way the authority can operate. Now I realize that there are a lot of you in this room today who have some concerns with the amount of money the Ethanol Authority has in its fund, and the fact that they have not yet made a substantial investment in a particular company. I think, as I said earlier, that they are on the cutting edge of some products being developed in Nebraska that will hopefully revolutionize the ethanol industry. Nebraska could be a foundation leader in development of those products. I think it would be a terrible mistake if we would choose to either reduce or eliminate the Ethanol Authority's powers. I think that they have been very prudent in their approach towards addressing the issue of building plants in Nebraska. They have had a number of proposals offered to them by various companies, none of those have met I guess the prudent man rule, that the authority has felt comfortable enough to make substantial investments in any companies. There are a number of proposals still before the authority that they are working on. And, as I said, I assume eventually they will get to a point

where they will make some investments in some companies and see, hopefully, this whole entire market begin to expand in Nebraska. I would add to this body that a resolution has been offered by the Agriculture Committee to study the Ethanol Authority, to look into their financial background. And some of the questions that Senator Haberman raised in a bill he presented to the Agriculture Committee this year that is still in the Agriculture Committee. I think that the committee is committed into looking into the points of allegations that Senator Haberman has brought up. I think the Appropriations Committee has also done some checking in examining the budget of the authority. And I think we have several people checking into the authority's operations. But at this time I think we do need to enact LB 587. I'd like to see the bill stay as it is now written rather than adopting a number of amendments, but if it would make people feel more comfortable with the authority, if we have some checks and balances there, that is fine with me. But at this time I plan on supporting Senator Schmit's amendment. As he said, it's very difficult to track Nebraska grain across the state and around the country, and I don't know if the Haberman amendment can actually work that well if, in fact, we're going to use Nebraska grain. Now I suppose most of the grain that is being processed to make ethanol in Hastings right now is Nebraska grain, but if you happen to build a plant on the border of Nebraska and Scottsbluff, or Blair, for example, you may very well receive grain from, in some cases, Wyoming, Colorado, or Iowa...

SPEAKER BARRETT: One minute.

SENATOR R. JOHNSON: So I would see that that would cut off markets that the people operating an ethanol plant would have, so I think it's important that we amend the Haberman amendment. As I said, there are a number of amendments forthcoming. I don't plan to speak to all of them, as a matter of fact this probably will be my only speech on this issue. I would just tell the committee or tell the body that the Ag Committee is going to look into this whole issue this summer, and hopefully we'll answer some of the questions that certain members of this body have about the operations of this Ethanol Authority.

SPEAKER BARRETT: Thank you. Senator Smith, your light is on. Would you care to speak to the amendment to the amendment?

SENATOR SMITH: Yes. Thank you, Mr. Chairman. I would like to ask a question of Senator Haberman. Senator Haberman, first of

all I would like to say that I do understand what you're trying to do in this amendment, because I agree with you, we should do everything we can to try to promote the use of Nebraska's products and by-products. But I would just ask, based on what Senator Schmit and Senator Rod Johnson have said, do you feel that there is any way that we could assure that we could use only Nebraska products, or that we could certify that they were Nebraska products?

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Well, Mr. President, Senator Smith, if the ethanol plant in Hastings should become productive I would answer your question by saying, in my opinion there is enough corn in the Hastings-Grand Island-Kearney area to supply to your plant, the plant in Hastings.

SENATOR SMITH: Yeah.

SENATOR HABERMAN: Yes. There are no ethanol plants operating in Nebraska, whether there is a corn supply or not. So I would say, yes, let's start this (inaudible) in extreme cases that they can come to this body and say, we have a plant out here in...a mile from Colorado, can we have an exception? Let's chew on it, let's think about it. But I'm going to answer, yes, I think there is.

SENATOR SMITH: Okay, and I would just say that I agree with you as far as Hastings is concerned because I've been there a number of times and had the tour and so on, and they've given me the facts about where the corn comes from. And, indeed, it does come from that area. So I know that in that case it could, but given the concerns that we have for where other plants may be developed, for instance, Blair and that sort of thing, and if you have one close to a line what would you do, how would you be able to certify that, that it was indeed only Nebraska products?

SENATOR HABERMAN: Senator Smith, to be realistic about it there are no ethanol plants, per se, as ethanol plants under consideration at the present time. No funds have been expended. There aren't any applications in, so...and there have none been built. So I don't feel I have to clarify it, but I would say at Blair, there is enough corn in the Blair area to supply that plant.

SENATOR SMITH: Yes, but see I don't think that's the argument they're making. The argument they're making is how would you be able to assure that that was...that they were using only Nebraska products. Would there be a problem that would result? If you put a piece of...add this amendment to the bill stating that it could only be Nebraska products, and in fact how would you assure that that would be the case? Could you keep a plant...

SENATOR HABERMAN: By the same, by the same token, Senator Smith, how can they assure me that it won't be the case?

SENATOR SMITH: Senator Schmit, would you like to have the remainder of my time to discuss a little bit further my concern about...with this amendment and, short of your amendment to his amendment, what could or would happen, would there be any problem that would arise if this amendment were attached when we know that we can't really basically certify or assure that the grain would only be Nebraska grain.

SENATOR SCHMIT: Yes, thank you, Senator Smith. I will try to be as brief as possible. There isn't any realistic way which you can identify a bushel of corn once it enters into the marketing stream. The individual elevator operator may know where the grain comes from, but once it is dumped in the pit it becomes a blended product. So, therefore, over the years we've come to realize that we just cannot identify, and be realistic about it, a Nebraska identified product. We recognize that whenever you consume a bushel of grain, regardless of its origin, it is beneficial to the industry and it means that there is one less bushel of grain to be in storage. So it doesn't make any difference, really, whether the grain was produced in...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...Nebraska or Colorado or Kansas or Wyoming, because so long as we consume the grain there is a positive impact upon agriculture. So I would hope that we would adopt my amendment to the Haberman amendment, because otherwise all we do is create a problem for the elevator operator, and they're going to, one time or another, violate the law and there isn't any reason for it. We could create a problem for the ethanol plant, and we should not create problems where there is no need to create one. So I would hope that we would certainly not adopt

the Haberman amendment. I'd just like to make one more comment, if I have some time, and that is if I understood Senator Haberman right, he said that there was not a productive plant in Nebraska. The Hastings plant is very productive and very efficient, in fact operated at 122 percent of capacity last year. It's almost unheard of, I believe, for a plant to do that.

SPEAKER BARRETT: Time has expired. Thank you. Senator Haberman.

SENATOR HABERMAN: Well, Mr. President, members of the body, Senator Schmit, in his opening remarks, laid a smoke screen down, in my opinion, and he said due to the new meat packing plant, due to the increase in livestock that we're going to need and we're going to want ethanol plants to use the by-product. So I would say to Senator Schmit, at the present time is there under consideration the building of ethanol plants with the check-off funds?

SPEAKER BARRETT: Senator Schmit.

SENATOR HABERMAN: Yes or no?

SENATOR SCHMIT: Yes, Senator Haberman, the Ethanol Authority is in existence. They will accept any application that is realistic. They have rejected some which were not, and we would encourage them, and I'm sure you would join me in encouraging them to do so. The fact that...

SENATOR HABERMAN: All right, Senator Schmit. If....What I meant by smoke screen is that he brought up an issue that doesn't enter into this issue, because the original intent of the check-off, there hadn't been any plants built. Now if there was a plant built at Lexington, and if they were going to use the spill-off from the cattle, there would be enough corn in that area, and the by-product would be there. So Nebraska grain has nothing to do with that. So they said, how can we separate the grain? Well, now let's say, for example, where are we going to build an ethanol plant, we're going to build it in the Imperial area, we have enough grain. Senator Smith says she has enough corn. We go up in northeast Nebraska, they have enough corn. You go round in Lincoln, they have an ethanol plant, so they must have enough corn. So I really don't buy the fact that they're going to ship in a car load of wheat or a car load of

corn and then they can't take the kernels and say this came from Nebraska and this didn't. But let's assume that they're right. Let's assume that we're going to use outstate grain. Then how does that help the Nebraska farmer because the checkoff was to buy his grain. That's what the checkoff was for, to buy his grain. Now it's perfectly all right for this body or the ethanol board to go to Kansas or Colorado or North Dakota or South Dakota or Indiana and buy grain and bring it to Nebraska. You know, folks, I just don't buy that. So I'm going to rest my laurels on we started this whole issue, we took this tax money from those 33,000 corn farmers and they said we're going to use this to buy Nebraska grain, we're going to use the excess, we're going to raise the price. We promised them the world and we're leading them down the primrose path, that's what we're doing. So I'm going to hang my hat, regardless of how the vote comes on. This issue was passed on this floor to use Nebraska grain, that's what the tax was for and that's what I think we should use. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Abboud.

SENATOR ABBOD: Question.

SPEAKER BARRETT: Thank you. That won't be necessary, we do not have any other lights on at the present time. Senator Schmit, would you care to close on your amendment to the Haberman amendment?

SENATOR SCHMIT: Mr. President and members, first of course Senator Haberman has a point. We would all like to see the plants use grain from Nebraska, and in most instances that will happen because of the proximity of Nebraska grain to the plant. If, however, the law of economics would indicate that you might buy a supply of grain from some other part of the country, then that is an economic decision that must be left up to the operator of the plant. Isn't very likely it's going to happen, but it could happen. Just, for example, we have said many times that the ethanol industry could utilize damaged grain and that it could use the screenings from grain. There may develop quite a market in that area. That would be a double benefit, it would lower the costs of the raw material, it would improve the quality of the remaining grain. I want to emphasize again, as Senator Haberman has pointed out, a bushel of grain is a bushel of grain. And once that bushel of grain comes out of the marketing system, goes into the alcohol plant, it removes that

grain from the market and requires that something else fill its place. So it doesn't make any difference where it's originated from. The idea is to consume grain and to get it into the market system and to get it utilized and make a profit for the farmer. Nebraska farmers have supported this program. I've not had a single Nebraska farmer complain about the program to me. And I think that the amendment that I have proposed to Senator Haberman's amendment is a realistic one, I hope you would adopt it.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of the Schmit amendment to the Haberman amendment. Those in favor vote aye, opposed nay. Record.

CLERK: 21 ayes, 1 nay, Mr. President, on adoption of Senator Schmit's amendment to Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted. Senator Haberman, on your amendment as now amended.

SENATOR HABERMAN: Well didn't we just adopt the Schmit amendment to my amendment?

SPEAKER BARRETT: That's correct.

SENATOR HABERMAN: Doesn't that wipe my amendment out?

SPEAKER BARRETT: No.

SENATOR HABERMAN: We still are fighting on my first amendment?

SPEAKER BARRETT: The body is...

SENATOR HABERMAN: I'll accept...I'll withdraw my amendment then.

SPEAKER BARRETT: Can't do it, Senator, it's already been amended. We're now talking about your amendment. We're back to your amendment, as now amended by Senator Schmit.

SENATOR HABERMAN: Well, Mr. President and members of the body, the amendment says that grain shall mean wheat, corn and grain sorghum produced in Nebraska. I'm going to again say that the wheat, corn and grain sorghum producers were the individuals that funded the Ethanol Authority and Development Board, and so

they should be the ones that benefit by having their grain purchased by entities funded by this board. We've gone through all the other arguments, Mr. President, and I'll leave it sit there.

SPEAKER BARRETT: Thank you. Before recognizing Senator Schmit for discussion on the amendment, the Chair is pleased to announce that this is a red letter day in the life of Senator Timothy Hall. It's the Chair's understanding that this is Senator Hall's birthday, and the cupcakes and the doughnuts are in recognition of Senator Hall's birthday. Senator Moore, for what purpose do you rise?

SENATOR MOORE: I just had to mention that I thought it was rather odd that Senator Hall handed out cupcakes. I remember an article earlier in the session where he said if he was a cupcake Yanney wouldn't have hired him, but maybe he's changed his mind now that he gave all of us cup...he must think we're all cupcakes today. (Laughter.)

SPEAKER BARRETT: Is the Chair correct in assuming that you would care to respond, Senator Hall?

SENATOR HALL: Mr. President, only that...in that I hope Senator Moore enjoys his cupcakes, the half a dozen or so that he'll probably eat (laughter). And with that, Senator Moore, I'd be happy to supply any additional ones that you might need at any point in time. I'd like to thank you, Mr. President, appreciate that.

SPEAKER BARRETT: Thank you and happy birthday. Senator Schmit, to you for discussion on the Haberman amendment.

SENATOR SCHMIT: Well, Mr. President and members, I think that...

SPEAKER BARRETT: (Gavel.)

SENATOR SCHMIT: ...Senator Haberman would join me in saying that we deeply resent this frivolity here at the...by Mr. Moore and Mr. Hall in the midst of a serious discussion. But I would just want to say that I support the amendment as amended, and would hope that it would be adopted.

SPEAKER BARRETT: Thank you. Any other discussion? If not,

Senator Haberman waives closing and the question before the body then is the Haberman amendment, as amended. Those in favor vote aye, opposed nay. Please record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted. Next item.

CLERK: Mr. President, Senator Haberman would move to amend. Senator, I have AM604 that...on page 9, okay. It's found on page 897 of the Journal, Mr. President.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, this amendment addresses a concern raised by the ethanol...by a ethanol board staff member regarding investments. The staff member of the board raised this issue regarding investments. By allowing for expansion of existing plants, by allowing for expansion of existing plants we have broadened that area of investment. However, we do not limit the area of investments to brick and mortar types of things. And that means this, upon liquidation, if there should be a liquidation of one of these plants, or one of these entities, or one of these investments, there should be some value for putting their money into it. If the rest of our fund is allowed to invest in equipment, there will be a great, great risk of complete loss of our investment upon liquidation. So what this amendment does, we eliminate the provision that allows investment in equipment. We do not eliminate the investment for brick and mortar. Now there's a big difference, there's a big, big difference. Now I'm perfectly willing to concede that the intent of the bill and the issue of brick and mortar to build ethanol plants. There was nothing said about equipment. Now I don't know whether we're going to build one, six, eight, ten or a dozen of these, or none of them. But if we build one, just one, and it goes defunct for some reason, then we have no recourse, none. This equipment is worth nothing. If the idea hasn't worked, or the chemical doesn't work, or there is no sales for it, who is going to buy the equipment that we have taken tax dollars and purchased? Now if somebody can show me that if this happens, if something goes defunct, which it can in this day and age, how we're going to "reget" any of our tax dollars out of that, then I'll go along with it. But this equipment you're not going to get any money

for it. We just sold out one of the largest manufacturers and specialties in Nebraska and his equipment, his equipment went for a song. They gave it away at the auction due to transportation, due to people not wanting it and due to new equipment on the...to buy. So that's what this amendment does. Now this, to me, is a serious amendment. And I don't see why, when we go into an adventure, we have to use our tax dollars to buy equipment, if we're buying and helping build and going to expand the brick and mortar. That's what the amendment does. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Mr. Clerk, an amendment on the desk.

ASSISTANT CLERK: Yes, Mr. President. Senator Schmit would move to amend the Haberman amendment. The amendment is found on page 999.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, my amendment reinserts the words "acquisition of equipment". I believe it is important that we have those words in the bill. I don't think it's possible, Senator Haberman, to build a plant without having it equipped with a certain amount of equipment. It's all one and the same. I think that you could possibly, if you wanted to be bureaucratic about it, say well, okay the Ethanol Authority will provide for the footings and we'll provide for the concrete and we'll provide for the bricks. But then the rest of the equipment must be purchased and supplied by the individual whose building the plant. I don't think it's necessary. We are participating, if we ever do, in an entire activity. And I just want to suggest that, for example, there have been individuals who have come to me recently who told about the fact that they can't acquire equipment from plants that have gone bankrupt, plants that were overdesigned, underdesigned, illdesigned, et cetera. If, in fact, the Ethanol Authority decides that that is a good investment then I think that's the way it ought to be done. I think that the fact that the Ethanol Authority is proceeding with caution indicates that they're not going to be foolish about these investments. I think that we can find many, many areas if we want to be critical of expenditures of taxpayer dollars. But I think that it's sort of unusual that we find someone who is critical because this authority has not expended hardly any taxpayer dollars thus far, but have been most

scrupulous in the expenditure of those dollars which they have authorized. I think that to adopt the Haberman amendment would be a ridiculous part on...would be ridiculous on the part of this Legislature, and I would move for the adoption of my amendment to the Haberman amendment.

SPEAKER BARRETT: Thank you. Discussion on the Schmit amendment to the Haberman amendment? Senator Elmer, Senator Rod Johnson and Senator Smith. Senator Elmer.

SENATOR ELMER: Thank you, Mr. President. I'm sure you all realize in a plant that we're talking about that would produce ethanol that the major portion of the expense is not the concrete footings, is not the sheet metal walls, it is the distillation, cooking and related equipment, equipment. The largest portion of the investment lies there. If we're going to be able to promote and use these kind of facilities the ability for the Ethanol Authority to underwrite the purchase of equipment is essential. And I would support Senator Schmit's amendment to the amendment.

SPEAKER BARRETT: Thank you. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President, members, again I rise to support Senator Schmit's motion. I don't know how many of you were paying attention to something he pointed out, but I'd like to reiterate that point, and that is that I doubt we'd be having the discussion today on this issue if the board had not shown some prudence in their decision about some of the investment opportunities that they've had. You know it's ironic, we could be arguing the flip side of this issue which would be that the authority went out and expended the money all in one shot or in several bad ventures, and we'd be all sitting around here complaining about it. But they've shown wisdom not to get involved with some companies, and they are still researching others. And it's important, I think, that we realize that they have shown some patience. They have researched some of these companies that have offered or have submitted bids for financial assistance. And I think we should commend them for that, not ridicule them for that. And I think that the Schmit amendment recognizes that there are people who have concern about the large amount of money they have, but they have to make investments in these companies and equipment is a vital part of these companies. And if we're going to have a plant or plants built in this state then it is important that we also allow them

to make investments in some of the equipment that will be functioning inside the plant. So, again, as I said, I support the Schmit amendment. I support what the authority has done up to this point, even though certainly we'd like to see a number of plants up and operating, that hasn't been the case. But I think, as I said in my earlier comments, that there are proposals that are being considered now by the authority that will, I think, produce some benefits for Nebraska and for the growers that contributed dollars into the program. The goal, of course, is not only to use up grain, it is to help clean up the environment. This bill addresses air quality. We haven't talked about that yet, but that is a side benefit of this issue as well that we might also want to consider. So, as I said, I support the Schmit amendment. I think it defuses some of the negative aspects of the Haberman amendment.

SPEAKER BARRETT: Thank you. The member from Hastings, Senator Smith.

SENATOR SMITH: Thank you, Mr. Chairman. I am not sitting in your chair. I keep getting mixed up with Kristensen's desk and mine. But I'm at my own speaking point right now. I would just rise also to support Senator Schmit's motion. And I'm not going to try to repeat all the things that have been said. I would just simply state that for anyone who has visited an ethanol plant you would find that there is very little bricks and mortar but a heck of a lot of equipment. So if you were going to eliminate the capability for them to use the funds to invest in equipment you would remove most of the reason for the funds to be utilized in that way. Rex, I just have one more little thing I'd like to say to you. You'll be so glad to know I found out that the ADC plant in Hastings is operating, so maybe I am pork-barreling. Thank you.

SPEAKER BARRETT: Thank you. Senator Haberman.

SENATOR HABERMAN: Senator Smith, members of the body, Senator Smith, I would not, I would not stand up here in front of your colleagues and even hint of pork-barreling. Senator Schmit made the remark that these entities could buy cheap equipment. They could go out and buy cheap equipment. Now that doesn't really necessarily follow that if we buy equipment it would also be a little return on liquidation. So, if we go out and buy cheap equipment, there must have been something wrong for the equipment to be cheap in the first place. That's right, stop

and think about it. Why would there be equipment that was used for what we're going to use it for, and the issue has been clouded, we're not going to use it evidently for ethanol, we're going to use it for other purposes. If a plant or an industry has gone under, then why would we want their equipment? And then another question is, what is going to...what is it worth to that firm? So I guess...see I am not questioning, and I have not questioned some of the other issues that have been mentioned on this floor, about the ethanol board, about what they have done or haven't done, the issue that I'm talking about is trying to clarify, trying to clarify in the statute, for example, they say in their testimony they don't know whether they can buy equipment or not. So then the question comes up, have they bought any? And, if they've bought some, did they do it illegally? How much more are they going to buy? So I will say one more thing. I want everyone....I've got a feeling that Senator Schmit is going to prevail, which is fine. But it doesn't bother me a bit to stand up here and raise these questions, have him explain them. And I hope down the road that I'm wrong. I hope that none of these things that I'm asking that we try to be ready for, if it happens, happens. So I would say that I still feel we should leave it to brick and mortar. We shouldn't take the tax dollars to buy the equipment, and I ask you to oppose Senator Schmit's amendment. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. The gentleman from Tecumseh, Senator Morrissey.

SENATOR MORRISSEY: Question.

SPEAKER BARRETT: Question has been called. It won't be necessary, however, we have no other lights on. Thank you, sir. Would you care to close, Senator Schmit?

SENATOR SCHMIT: Only briefly, Mr. President. I appreciate the remarks of Senator Rod Johnson and Senator Smith. I think that they adequately expressed the reasons why we should adopt my amendment to the Haberman amendment, and I want to emphasize again that, as Senator Elmer said, that the vast majority of the expense of one of these plants is in equipment. And it doesn't make any sense to me that we try to differentiate between it. I think that I want to emphasize again what Senator Rod Johnson said, the prudence that has been exercised by the authority is in fact commendable. Contrary to what some of us feared, that

there might be an indication or inclination to rush out and spend the money, the authority has acted with utmost caution. So I think that we can expect them to continue to do so. I move for the adoption of the Schmit amendment to the Haberman amendment.

SPEAKER BARRETT: Thank you. You've heard the closing. The question before the body is the adoption of the amendment to the amendment. Those in favor vote aye, opposed nay. Record.

ASSISTANT CLERK: 15 ayes, 0 nays on the Schmit amendment to the Haberman amendment, Mr. President.

SPEAKER BARRETT: The amendment is adopted. Senator Haberman, back to your amendment, as amended.

SENATOR HABERMAN: Mr. President, I just move for the adoption of the Schmit amendment on the Haberman....

SPEAKER BARRETT: Thank you. Any discussion on the Haberman amendment? Seeing none, those in favor of the adoption of the Haberman amendment please vote aye....Excuse me. Senator Schmit.

SENATOR SCHMIT: Well, I'll let it go this time. Fine.

SPEAKER BARRETT: The question is the adoption of the amendment. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: 25 ayes, 0 nays on the Haberman amendment as amended, Mr. President.

SPEAKER BARRETT: The amendment is adopted. The Chair is pleased to announce at this point that Senator Lowell Johnson has some guests in the north balcony. We have 41 fourth graders from Fremont, Clarkson Elementary with their teacher. Would you folks please stand and be recognized. Thank you, we're happy to have you with us today. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next amendment that I have is from Senator Haberman. It's found on page 897, it's AM607.

SPEAKER BARRETT: Senator Haberman, please.

SENATOR HABERMAN: Mr. President, members of the body, this is 607, Dick? This amendment, as well as the rest of them, are straightforward amendments. It comes as the result of a letter from Peat Marwick Main Company, to the ethanol board. In this letter Mr. Groshans, of Peat Marwick Main and Company stated that, "when capital injected is used primarily to fund current operating expenses and only minimal assets would be available upon liquidation." Now he raises this point, and as I understand it, he is an advisor to the board, and when capital is injected, it is to fund current operating expenses. That is the issue we are talking about. Now to assure that this does not happen to the invested money by the Ethanol Board, I propose this amendment to guarantee that funds invested by the Ethanol Board would not be used for operating expenses, so that if that company would undergo liquidation someday, the Ethanol Board would be able to recover some of the invested money through the assets of the corporation. Now this makes good investment sense, especially, particularly when the money invested could be classified as venture capital which is risky enough by itself. So this amendment states that when capital is injected to primarily fund current operating expenses, that only minimal assets would be available upon limitation. So this is what the amendment does. As I understand it, are now going to buy equipment, we are going to build the plant. Now we are going to go that step further and we are going to furnish the operating expenses. I think maybe we should put a halt on some of this somewhere. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. An amendment on the desk.

CLERK: Mr. President, Senator Schmit would move to amend Senator Haberman's amendment. Senator Schmit would move to amend by striking Section 4 of the amendment, Mr. President.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I do not disagree with portions of what Senator Haberman is trying to do here. He has outlined in subsection 1, 2, and 3 that the funds shall be used for capital investment purposes, but subsection 4 refers to the grant or loan provisions of the bill, and there is in the bill provisions that will allow for a grant, which means the money is gone, or a loan to a city, county, village, or a postsecondary educational institution, which means that the money would probably go for research. And so research could

very likely be categorized as operational expenses. The particular intent that Senator Haberman is concerned about is that the funds be directed toward capital investment. I have no major concern with that, but I believe that...Senator Haberman says he has no concern about subsection, about deleting, about striking the subsection 4, so I think we will agree upon that amendment and I move for the adoption of my amendment.

SPEAKER BARRETT: Thank you. Discussion. Senator Haberman. Senator Haberman waives. Any other discussion? If not, I presume you are ready to vote on the Schmit amendment to the Haberman amendment. Those in favor vote aye, opposed nay. Record.

CLERK: 22 ayes, 0 nays, Mr. President, on adoption of Senator Schmit's amendment to Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted. To the Haberman amendment as amended, Senator Haberman.

SENATOR HABERMAN: I ask to move the amendment.

SPEAKER BARRETT: Any discussion on the advancement of the amendment? Seeing none, those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Haberman would move to amend the bill. Senator, this is AM0606 found on page 897 of the Journal.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: 606, right?

CLERK: Yes, sir.

SENATOR HABERMAN: Mr. President and members of the body, now it only seems reasonable that if an entity is coming to the Ethanol Board for hundreds of thousands or, yes, in some cases, it is going to be millions of dollars, the board shall require a showing that the entity has made or will continue to make

substantial investments of time and money to its own enterprise. Now if it isn't willing to do that, why should we invest our money in it. Why should we say to an entity, I have got \$17 million, how much of that do you need or do you want to take your idea and make it go? I am going to sit there and look at all that tax dollars and I am going to say, I need 5 million. Then they are going to say to me, how much of your money are you going to put into this investment or into this plant or into this idea or into this building or into whatever? And I am going to say, how much do I have to, it is my idea. I am going to do all these things for you. Then I am going to sit there and say, well, you know, you have got a good point. If we give him 5 million, we still have got 12 left, well, let's go for it. So that is what this amendment does. So that is why I ask you for the adoption of the amendment. Thank you.

SPEAKER BARRETT: An amendment to the amendment, Mr. Clerk.

CLERK: Mr. President, Senator Schmit would move to amend Senator Haberman's amendment.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President, and members, I have discussed this amendment with Senator Haberman and his staff, and after they have explained it to me, I really have no objection to it and, in fact, probably in retrospect as I look back, we have seen some instances where individuals have come forward and have claimed to have made a substantial investment in research and wanted the Ethanol Authority to give them what I or what Senator Haberman or somebody else might have considered an extraordinary amount of value upon that research, and I think that the language as outlined by Senator Haberman's amendment probably just does, in fact, reenforce my conviction that it should not be a one-party situation but that it should have, in fact, a definite commitment by the entrepreneur. I think that it is probably in some ways not necessary, but, nonetheless, so long as we are working with tax dollars, I would not object at this time, so I would ask permission to withdraw that amendment to the Haberman amendment.

SPEAKER BARRETT: The amendment is withdrawn. To the Haberman amendment, Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, I have

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explained the amendment, and with Senator Schmit's support, I will just wait to see if they have any questions or go on from there.

SPEAKER BARRETT: Senator Schmit, discussion?

SENATOR SCHMIT: Yes, Mr. President, I just want to say that I would hope the members have had a chance to read this amendment. It does outline in some detail some rather definitive language which the Ethanol Authority is required to follow. I would hope, and Senator Haberman I am sure would agree, that they would follow this anyway, but it does not in any way, I think, compromise the authority by placing this language in the statute, and if it gives the general public some additional sense of security to have this language in the statute, then I think it would probably be helpful, and so to that extent, I will support the amendment and ask for its adoption. I have one question, Senator, one of the items says, the securities to be purchased are qualified securities. Do you have an explanation of what a qualified security would be based upon your understanding of that terminology?

SENATOR HABERMAN: Senator Schmit, I believe they could go to the Research and Development Authority people and they go to Don Mathes and those people could explain and give them an outline as to what qualified securities are.

SENATOR SCHMIT: All right, thank you, Senator. Maybe we should have defined that in the act, but if we have difficulty with it, we will come back and look at it again. Thank you very much.

SPEAKER BARRETT: Thank you. Any other discussion on the Haberman amendment? Any closing, Senator Haberman? Thank you. Those in favor of the adoption of the Haberman amendment please vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Haberman would move to amend. Senator, I have amendment AMO619 in front of me.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the board (sic), this amendment does three things. It will assure and makes the Ethanol Board accountable to the Legislature regarding any and all investments that it makes. Second, it requires that the report contain the information regarding the amount of the Ethanol Board's investment, the current value of the assets of the company in which it invested, and the value of the assets of the company at the time of initial investment. This will allow a more complete picture of how much money is invested, and the value of that investment in terms of assets of the company. It will either show an increased or decreased value. In some cases, the assets may even show that there is no difference between the initial investment and the value of the current value. I believe that if we give any board the authority to expend funds, and those funds, in this case, are growing a million dollars a year, that we need to have clear-cut rules and regulations for the board to adhere to, and to require that that board report its activities in detail to this body. I see nothing wrong with that, and that is all this amendment does, and I ask that this body accept the amendment. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. We have some guests in the north balcony. I think perhaps they are just in the process of leaving. Senator Crosby announces the following guests, 6 Calvert Blue Birds from Campfire Group II, with their leaders. Would you folks please wave and be recognized. Okay. Thank you. We are glad to have you with us. And also, the Chair is pleased to announce that we have a number of guests in the north balcony who are members of the Nebraska Chapter of the Certified Auctioneers Institute. They come to us from Atkinson, Newman Grove, Lincoln, Omaha, and Madison. Would you gentlemen please stand and be recognized by your Legislature. Thank you. We are delighted to have you with us today. Senator Schmit, discussion on the Haberman amendment.

SENATOR SCHMIT: Mr. President and members, I have not seen this amendment until just this morning, or a few minutes ago, in fact, to be accurate, but after having it explained to me, I really don't see anything wrong with it, and it is a rather detailed report, but we are dealing with a lot of money, and I really have no objection to it at this time. If it turns out that it provides some difficulty, I am sure that Senator Haberman will be willing to take a look at it again. In fact,

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it might even be desirable if we had a more complete report from some of the other checkoff boards as to the expenditure of their funds. But at this time, I have no objection. In fact, I will support the Haberman amendment.

SPEAKER BARRETT: Thank you. Any discussion on the Haberman amendment? Senator Haberman waives closing and the question before the body is the adoption of the Haberman amendment. All in favor vote aye, opposed nay. Record.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted.

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

SPEAKER BARRETT: Senator Schmit, on the bill.

SENATOR SCHMIT: Mr. President and members, I believe the bill has been thoroughly explained. I think that the discussion that accompanied the introduction and the adoption of the amendments further enlightened the members. I believe that the bill is in good form. I believe it will accomplish that which we intended for it to accomplish and I would have no further comments at this time.

SPEAKER BARRETT: Thank you. Discussion on the bill's advancement, Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I would just like to make a few brief comments on this bill. I think it is a good bill. I think that anything we can do to enhance the ethanol production in Nebraska is for the benefit of all the citizens in Nebraska, and especially the farmers. I am in the oil business and we sell quite a little unleaded gasoline, and most of this unleaded gasoline now contains alcohol, and this is good for the environment, it is good for the country. As we have seen in the past couple of years, Colorado has adopted or mandated more use of a fuel that will produce...that will not be so harmful to the environment, also, Arizona, and some other states, and so I just feel that we need to do everything we can to promote this product here in Nebraska, and also for the manufacture of it. I think we have just scratched the surface, and I want to say to Senator Schmit that you have been the

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father, or maybe I should say, now, the grandfather of ethanol promotion and production in Nebraska, and I commend you for it. And I think that we should advance this bill at this time.

SPEAKER BARRETT: Thank you. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President and members, I will make some closing comments before we advance this bill. As I said, several people have asked me whether the bill is good for the industry, and I think it is. I think this bill does a number of things that is very beneficial for the authority. One, it opens up the membership to any Nebraska corn, wheat, or sorghum grower who might want to petition to be on the board. It also makes changes to allow the board to work more closely with co-ops, and other entities, that currently they cannot do. It sets up a cash fund. It allows the board to make investments in products other than just ethanol, the by-products. I think that is something we discussed last year on this floor in relationship to the University of Nebraska. This would help clarify that area again, so the bill does a lot of things including extending the life of the authority, and I think that you need to do that. I am very much in support of what the authority has done to this point, although I know that there are questions about the amount of money that is in the fund and the fact that they have not been able to make sizeable investments yet. I would tell you, and I think if you would ask the board, or Todd Sneller, or someone that has worked with the board, that they have been working diligently to find a project that is going to be beneficial to Nebraska, and I think that there are a couple of proposals right now that they are waiting to act on that I think would benefit Nebraska. So I think that the life of the authority needs to be extended. I think these changes made in LB 587 will be beneficial to the board, and, hopefully, to the authority, and to the State of Nebraska, and I would urge this body to advance the bill.

SPEAKER BARRETT: Thank you. Senator Morrissey.

SENATOR MORRISSEY: I'd just, Mr. Chairman, members, I would like to ask Senator Schmit a couple of questions.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Yes, Senator Morrissey.

SENATOR MORRISSEY: I briefly discussed this with you yesterday, Senator. In the bill, could you give me a definition of an ag production facility?

SENATOR SCHMIT: Ag production facility?

SENATOR MORRISSEY: Yes.

SENATOR SCHMIT: Well, it would be a facility which would utilize agricultural products I would assume.

SENATOR MORRISSEY: What I am getting at is what I talked to you about briefly yesterday.

SENATOR SCHMIT: Trying to find out if you can get some of this money for your chicken house? Is that right?

SENATOR MORRISSEY: Yes, does 5 million chickens a year, does that, would that qualify as an ag production facility is what I am wondering. I heard you say earlier that the cattle feeding industry could benefit. Now is that just because of their use of by-products, not necessarily the use of the corn for feed or anything like that?

SENATOR SCHMIT: Yes, the livestock industry, of course, is a heavy user of protein products, and distillers dry grains or distillers wet grains are a high concentrate of protein, and they could utilize that protein. The poultry industry, of course, also uses much protein, and to the extent that they would benefit from the protein developed from this kind of an institution or installation, they would benefit. But if you will check the definition of agricultural production facility on page 4 of LB 587 it states it shall mean a plant or facility related to the processing, marketing, or distribution of any products derived from grain components, co-products, or by-products, so I would assume that it would not...it would not include the poultry facility to which you are referring.

SENATOR MORRISSEY: All right, then, I just would say then we keep falling through the cracks down there. I keep looking for a little wedge to get in somewhere and get a little for these chickens. It looks like we just fell through another crack here, though. We are not indirectly producing or we are not producing jobs directly but indirectly. With 30 producers, we can create over 100 jobs and we just keep falling through the

cracks, and I thought maybe this was a place to jump on board, but I will keep looking I guess. Thank you, Senator.

SPEAKER BARRETT: I am sorry, Senator Morrissey.

SENATOR MORRISSEY: I also meant to add that I do support the bill, by the way. Thank you.

SPEAKER BARRETT: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the body, I'm going to raise an issue and I would like to have Senator Schmit listen because I'm going to ask him what he thinks about the issue that I'm raising. Now, Senator Schmit, it's my understanding that part of your bill does the following. In 1987, this act was expanded to include any other agricultural by-product production and distribution plants and facilities. Under LB 587, the act will be expanded, it will be expanded to any programs to process, promote, market and distribute products derived from grain or from ethanol or ethanol components, proponents or by-products. Now it seems to me, Senator Schmit, that this expansion would allow for any products from food products to nonfood products, such as de-icer and garbage bags to solicit funds from the Ethanol Board. These things were not contemplated as occurring under the original bill when it was passed in 1986. The definition of agricultural production facility is given as a plant or facility related to the processing, marketing or distribution of any product derived from grain components, co-products or by-products but it does not say ethanol. Later, on page 5, the bill talks about an ethanol or agriculture producing facility or a facility related to the processing, marketing or distribution of ethanol or any products derived from ethanol components, co-products or by-products. So it appears to me, Senator Schmit, that there are two areas covered by this bill, ethanol and everything else. What would your reaction be to that, sir?

SENATOR SCHMIT: Anything, Senator Haberman, that would encourage the consumption of grain and its end use in any way that would encourage the consumption of grain will benefit agriculture, will benefit all of Nebraska and I think that the Ethanol Authority will take that into consideration. And, certainly, one of the principal concerns in the past has been that we were not perhaps devoting enough time to the by-products of the ethanol distillation process and, in fact, it may very

March 8, 1989

LB 89A, 569A, 574A, 587

well be, time will come when the ethanol will, in fact, be the by-product and some other product from this process will be the major financial component. I would like to point out also that we have, as I have pointed out, seen the accent upon developing the ETBE industry, which is a further derivative of the ethanol distillation. I have to explain and apologize that many years ago I didn't know how far we were going to go on this but we have come quite a ways.

SENATOR HABERMAN: All right, Senator Schmit and members of the body, for the record, as I understood Senator Schmit that the amendments and the bill pertain to the use of grain. That is what Senator Schmit said. That, I will buy. I will support the issue...

SPEAKER BARRETT: One minute.

SENATOR HABERMAN: ...due to the fact that it says, "and the intent is the use of grain". I'm not saying Nebraska grain. I'm not putting any strings on this thing but that is what the bill does. That's what it's to be used for and that I will buy. Thank you, Senator Schmit.

SPEAKER BARRETT: Anything further on the bill? Any closing comment, Senator Schmit?

SENATOR SCHMIT: No closing, Mr. President.

SPEAKER BARRETT: Thank you. The question before the body is the advancement of LB 587 to E & R Initial. Those in favor vote aye, opposed nay. On the advancement of the bill, have you all voted? Please record.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 587.

SPEAKER BARRETT: LB 587 is advanced. Senator Roger Wehrbein is announcing the presence of a very special guest from Plattsmouth, Jan Stuckey. Jan, would you please stand and take a bow. Thank you. Glad you are here. For the record, Mr. Clerk.

CLERK: New bills, LB 89A by Senator Lynch. (Read for the first time by title.) LB 574A by Senator Rogers. (Read for the first time by title.) LB 569A by Senator Rogers. (Read for the first

March 13, 1989

LB 46, 54, 145, 182, 211, 237, 247
259, 288, 315, 316, 356, 379, 388
411, 418, 437, 447, 449, 449A, 506
587, 630, 651, 652, 809

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: (Microphone not activated) ...to a new week in this the life of the First Session of the Ninety-first Legislature. Our Chaplain this morning for the opening prayer, Pastor Jerry Carr of First Four-Square Church here in Lincoln. Pastor Carr, please.

PASTOR CARR: (Prayer offered.)

SPEAKER BARRETT: (Gavel.) Thank you, Pastor Carr. We hope you can come back again. Roll call.

CLERK: Quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER BARRETT: Messages, announcements, reports?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 587 and recommend that same be placed on Select File; LB 379, LB 46, LB 388 and LB 145, LB 237, LB 418, LB 506, LB 449, LB 449A and LB 54, all placed on Select File, some of which have E & R amendments attached. (See pages 1059-66 of the Legislative Journal.)

Mr. President, Business and Labor Committee reports LB 630 to General File; LB 315 to General File with amendments; LB 288, indefinitely postponed; LB 316, indefinitely postponed, LB 411, indefinitely postponed, and LB 652, indefinitely postponed, those signed by Senator Coordsen as Chair of the Business and Labor Committee. (See pages 1067-69 of the Legislative Journal.)

Mr. President, a series of priority bill designations. Senator Withem, as Chair of Education, has selected LB 259 and LB 651. Mr. President, Senator Nelson has selected LB 447; Senator Langford, LB 211; Senator Coordsen, LB 182; Senator McFarland, LB 437; Senator Byars, LB 809; Senator Withem, LB 247; and Senator Crosby selected LB 356, Mr. President.

I have an Attorney General's Opinion addressed to Senator Hefner

March 21, 1989

LB 77, 228A, 258, 456, 468, 587, 597
683

CLERK: (Read record vote. See pages 1252-53 of the Legislative Journal.) 28 ayes, 11 nays, Mr. President, on the motion to raise the bill.

PRESIDENT: The motion passes. Anything for the record about now, Mr. Clerk?

CLERK: Yes, sir, I do. Your Committee on Appropriations, whose Chair is Senator Warner, reports LB 258 to General File, and LB 468 to General File with amendments, signed by Senator Warner. Health and Human Services Committee reports LB 456 to General File with amendments. That is signed by Senator Wesely. Senator Haberman has amendments to LB 587 to be printed; Senator Abboud to LB 597. (See pages 1253-56 of the Legislative Journal.)

Mr. President, a new A bill, LB 228A. (Read for the first time by title. See page 1257 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: We move on then to LB 77.

CLERK: Mr. President, LB 77 is a bill introduced by Senator Warner. (Read title.) The bill was introduced on January 5. It was referred to the Banking, Commerce, and Insurance Committee for public hearing. The bill was advanced to General File and I do have committee amendments pending by the Banking, Commerce, and Insurance Committee, Mr. President. (See page 679 of the Legislative Journal.)

PRESIDENT: Senator Landis, are you going to handle the amendment? Senator Conway, are you prepared to handle that as Vice-Chairman of the committee?

SENATOR CONWAY: Mr. President and members, speaking on behalf of the committee, the committee amendments that were applied to LB 77 were purely technical. The committee amendments would insert and amend Section 81-8,239.01 to give the State Risk Manager the authority to carry out the duties prescribed by the bill as introduced, purely technical, but giving authority to the State Risk Manager.

PRESIDENT: Thank you. Senator Hannibal, did you wish to speak about the committee amendments. I don't see Senator Hannibal

that reason, when the motion to indefinitely postpone comes up I will just request to lay it over and then we can take it up at the next available opportunity. That was my reason for making the motion to adjourn. I thought it should have been appropriate to but I understand your reason for voting no. And we can just deal with it this way with the motion to indefinitely postpone and then lay it over. Thank you.

SPEAKER BARRETT: A priority motion on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to bracket LB 224 until Tuesday, March 28.

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, since I had just filed the kill motion and it would have been a friendly kill motion because I would have withdrawn it, by filing a bracket motion we can get to it very directly. So I'm going to ask unanimous consent to bracket LB 224 until tomorrow.

SPEAKER BARRETT: Are there any objections to the Chambers motion to bracket the bill until Tuesday the 28th, Senator Chambers? Are there any objection? If not, so be it. The next bill, Mr. Clerk.

CLERK: Mr. President, items for the record. I have amendments to be printed from Senator Chambers to LB 224; and Senator McFarland to LB 224. (See pages 1359-61 of the Legislative Journal.)

Mr. President, the next bill is LB 587. And the first item I have are Enrollment and Review amendments, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move that the E & R amendments to LB 587 be adopted.

SPEAKER BARRETT: Shall the E & R amendments be adopted to LB 587? Those in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, Senator Haberman would move to amend the bill. Senator, your amendment is on page 1254 of the Journal.

SENATOR HABERMAN: Mr. President and members of the body, the amendment clarifies the terms contained in the amendment adopted by the body. It changes the word "enterprise" to "project" and the word "entrepreneur" to "applicant" and these changes are consistent with the Ethanol Board's terminology. On page 2, line 7, the word "substantial" has been deleted from the employment paragraph. This is to eliminate possible confusion. The employment of two or three people may not be considered substantial in some cases but in a small community two or three people being employed can make a difference. On page 3, line 20, the word "initial" has been added to clarify the investment made with regard to 49 percent ownership in a project. Page 4, lines 3 through 5 were added to allow the board to provide assistance to the applicants in their investment requests. Page 4, lines 7 through 10 were added to limit the amount of investment that the Ethanol Board can make in projects dealing with research and development. It limits this amount to \$3 million which is approximately 20 percent of the amount collected through the checkoff after refunds are made to the farmers. These amendments to my original amendment adopted by this body have the approval and cooperation of the Ethanol Authority and my esteemed colleague over here to my right, Senator Schmit. I ask the body to adopt the amendment.

SPEAKER BARRETT: Thank you. Discussion on the Haberman amendment. Senator Schmit.

SENATOR SCHMIT: Well, Mr. President, Senator Haberman has gone through the amendments. He has very meticulously researched some of the wording and has worked, as he said, with the Ethanol Authority representatives and myself and our various staff people and I have reviewed the amendments and I fully support the amendments and ask that they be adopted.

SPEAKER BARRETT: Thank you. Any other discussion? Any closing statement, Senator Haberman? Thank you. The question is the adoption of the Haberman amendment to LB 587. All in favor vote aye, opposed nay. Record, please.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted.

March 27, 1989

LB 587, 733

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

SPEAKER BARRETT: Thank you. Senator Schmit, on the bill as amended.

SENATOR SCHMIT: Mr. President and members, the bill as amended, I believe, represents a pretty definite point of view of a majority of the body. I don't think it needs any further explanation and I would be glad to answer any questions if there are any. If there are not, then I will be glad to move that it be advanced.

SPEAKER BARRETT: Thank you. Senator Rod Johnson, please. Thank you. Any discussion on the advancement of the bill? If not, those in favor of advancing the bill please say aye. Opposed no. Ayes have it. Carried. The bill is advanced. LB 733, Mr. Clerk.

CLERK: Mr. President, 733, I have Enrollment and Review amendments first of all, Senator.

SPEAKER BARRETT: Chairman Lindsay, please.

SENATOR LINDSAY: Mr. President, I would move that the E & R amendments to LB 733 be adopted.

SPEAKER BARRETT: Shall the E & R amendments to the bill be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

CLERK: Mr. President, Senator Wesely would move to amend. Senator, your amendment is found on page 1146 of the Journal. Senator Wesely, Mr. President.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, and members, the amendment before you, if you recall LB 733 deals with the Health Department's licensure of head-injured facilities, and in that area of licensure there is another area that we have had some problems with dealing with the licensure of x-ray machines. And we had a problem with a bill that we passed last year or, excuse me, in 1987, that was supposed to be implemented by January 1 of this year is not implemented. Rules and regs have not been able to be adopted. We are working diligently to try and deal with

April 3, 1989

LB 147, 279, 281, 319, 340, 340A, 410
414, 587, 588, 733

SENATOR PIRSCH: And under the present law that...you could do nothing really.

SENATOR LANDIS: That is not embezzlement, that's right. Embezzlement is where you steal money from the firm.

SENATOR PIRSCH: Right. Thank you, I appreciate the explanation...

SENATOR LANDIS: Sure, you bet.

SENATOR PIRSCH: ...and I support this bill.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Landis, anything further?

SENATOR LANDIS: Waive closing.

SPEAKER BARRETT: Thank you. Closing is waived and the question is the advancement of LB 319 to E & R. All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays on the advancement of 319, Mr. President.

SPEAKER BARRETT: LB 319 is advanced. Any messages on the President's desk?

CLERK: Yes, Mr. President, I do. Senator Hartnett has amendments to be printed to LB 588, Senator Chizek to LB 279, Senator Chambers to LB 281, Senator Landis to LB 279. (See pages 1462-64 of the Legislative Journal.)

Enrollment and Review reports LB 147, LB 340, LB 340A, LB 410, LB 414, LB 587 and LB 733 as correctly engrossed. (See page 1457 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Peterson, would you care to adjourn us until tomorrow?

SENATOR PETERSON: Mr. President and members, I'd be delighted to adjourn us till tomorrow morning at ten o'clock, is that, Senator Barrett, beings we lost an hour?

April 6, 1989

LB 414, 587, 733

Mr. President.

PRESIDENT: Please read the bill, 414.

ASSISTANT CLERK: (Read LB 414 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 414 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on pages 1543-44 of the Legislative Journal.) The vote is 39 ayes, 0 nays, 1 present and not voting, 9 excused and not voting, Mr. President.

PRESIDENT: LB 414 passes. May I introduce a guest, please, under the south balcony of Senator Chizek. She is Ruth Chermok of Omaha, she's also a niece of Senator Robak. Would you please stand and be recognized, Ruth. Thank you, Ruth, for visiting us today. LB 587 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 587 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 587 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Read record vote as found on pages 1544-45 of the Legislative Journal.) The vote is 39 ayes, 0 nays, 1 present and not voting, 9 excused and not voting, Mr. President.

PRESIDENT: LB 587 passes with the emergency clause attached. For you gentlemen watching from the balcony, you might be interested that we only have one more Final Reading to do, so hang with us and perhaps things will liven up a little bit after that. This is a necessary procedure that we go through to have all bills completely read so that the Legislature will know what is in them. I'm only kidding on the last sentence, but most of them do know what is in it, so don't worry about that. Mr. Clerk, LB 733 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 733 on Final Reading.)

April 6, 1989

LB 410, 414, 587, 733, 810

error on this simple majority, because it involves money, so go ahead and vote, if you like. But I'll check to see if I made a mistake or not. Have you all voted? Record, Mr. Clerk, please.

CLERK: 8 ayes, 12 nays, Mr. President, on adoption of Senator Lindsay's and Senator Morrissey's amendment.

PRESIDENT: The Morrissey amendment to the committee amendment fails. Now we're back on the committee amendment. Senator Coordsen, did you wish to discuss further?

SENATOR COORDSEN: No, only to move the committee amendment.

PRESIDENT: Okay. The question is the adoption of the committee amendments. All those in favor vote aye, opposed nay. We're voting on the adoption of the committee amendments. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT: The committee amendments are adopted. May I direct your attention, please, to the northeast corner of the Chamber where we have a previous member of this Legislature, Senator Dick Fellman of Omaha. Please welcome Senator Fellman back to the body. Senator, you left this body, what, about 14 years ago, something like that. Long time ago. Thank you for being with us. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 410, LB 414, LB 587, and LB 733. We're back on the...Mr. Clerk.

CLERK: Mr. President, Senator Coordsen would move to indefinitely postpone the bill.

PRESIDENT: Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. This is one of the IPP motions that is rare in this body, and that is a good motion. Since we've had the discussion on the bill, these claims that are contained within the bill now have been disallowed. There is no need for the bill beyond the need we've already accomplished of bringing the...several of the issues to the floor and giving the body the opportunity to look at the denied claims. So at this time it is appropriate to indefinitely postpone LB 810 and move on to the allowed claims.

April 6, 1989

LB 410, 414, 587, 588, 642, 733, 812

future Governors would choose to do. And it seems to me that it makes a world of sense to have a fully funded state program allocated in a fashion that the state wants to do, rather than use the route that has now developed into the overmatch which the federal government decides the allocation of funds rather than the State of Nebraska deciding how its own funds and only its own funds are to be distributed. So I would urge that the amendment not be adopted. The two programs ought to be set up, even though the distribution would not be different in the funds, but the state had ought to not be burdened with that maintenance of effort if you wish to make a change in the future. We ought to control our own destiny and not have the federal government doing it.

SPEAKER BARRETT: Thank you, sir. Senator Hannibal. (Cavel.)

SENATOR HANNIBAL: Well, Mr. Speaker, I realize the time is getting very close to a recess. May I inquire of the Chair if we were going to continue after recess with the same issue?

SPEAKER BARRETT: That would be my wish.

SENATOR HANNIBAL: Would it be permissible to move we recess until one-thirty.

SPEAKER BARRETT: If the votes are there, it would certainly be in order.

SENATOR HANNIBAL: I would so move.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Mr. President, Senator Korshoj has amendments to be printed to LB 588. I have a series of appointment letters from the Governor to be printed. Those will be referred to Reference Committee. (See pages 1550-54 of the Legislative Journal.)

Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning. (Re: LB 410, LB 414, LB 587, LB 733.)

And the last item, Mr. President, is a motion by Senator Ashford with respect to LB 642. That will be laid over. That is all that I have, Mr. President.

April 10, 1989

LB 46, 84, 145, 157, 231, 231A, 237
356, 379, 410, 414, 418, 587, 588
653, 733

CLERK: Mr. President, I have a reference report referring certain gubernatorial appointees to the appropriate committee for a confirmation hearing.

Senator Conway has amendments to LB 356 to be printed. Senator Conway would like to add his name to LB 84 as co-introducer. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. On Senator Withem's motion to adjourn, those in favor...recess, those in favor say aye. Opposed no. Carried, we are recessed until one-thirty.

RECESS

SPEAKER BARRETT PRESIDING

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

SPEAKER BARRETT: Thank you. Back to LB 588. Mr. Clerk, could you bring us up to date as to our position just before recess.

CLERK: Mr. President, I will, if I may read some items for the record initially?

SPEAKER BARRETT: Certainly.

CLERK: Your committee...strike that. A communication to the Clerk from the Governor. (Read communications re: LB 410, LB 414, LB 587, LB 733, LB 157, LB 46, LB 145, LB 231, LB 231A, LB 237, LB 379 and LB 418. See page 1600 of the Legislative Journal.)

Senator Hall has amendments to LB 653 to be printed, Mr. President. (See page 1601 of the Legislative Journal.)

Mr. President, the Legislature left LB 588 this morning and at that time Senator Smith via Senator Chambers had moved to reconsider adoption of Senator Labedz's amendment to the committee amendments. That motion is pending.

SPEAKER BARRETT: Thank you. Back then to the motion to reconsider. Senator Withem, would you care to continue the discussion on the motion to reconsider, Senator Chambers next.

eight members of this body should get together and tell the ethanol board what they should or shouldn't do. A few minutes ago we had Senator Baack and some of the other senators get up and sing the praises of we have an ethanol board, they're in charge, they should make the decisions. We have to have faith in the board. So already on this floor we have a split on whose to do who, and what, and why. Not only that, we have to make a decision whether we can spend this \$10 million by July, or the end of July. So what they're saying is, hey folks, we have a once in a life time opportunity, but we have to do it by the end of July. We have to spend this \$10 million by the end of July. Well, doesn't that say anything to you folks? Doesn't it say anything to you that here on the floor we've sung the praises of the board, that here on the floor we've said we've got to have six or eight senators tell the board what we want. Then they go a step further and say, we have to spend this \$10 (sic) by the end of July. Are we going to sit here, are you going to sit here and you have been told two or three different stories, you've been told we're going to return this to the farmer, we're going to return it to the farmer. We're going to have nonprofit corporation and return it to the farmer. I'd like to see that. But we have to do it by the end of July. We have to spend this \$10 million by the end of July so these poor farmers can get some results. Then we have somebody else say well if it isn't done by the end of July maybe we shouldn't give them the money. Well, you can bet your bottom dollar that there are enough attorneys available that are going to take whatever bill we pass, or whatever appropriations we make and they're going turn that around and they're going to dig and change so that they can get their hands on the \$10 million. I hope I stand up here a year from now and say Haberman, you were wrong, but I don't believe I will. I don't believe I will. The votes are here to give them the \$10 million, I know that. However, those of you who vote to give the \$10 million, I want you to recall what was said here on the floor because in LB 587 a nonprofit corporation cannot buy any ethanol plant, we put that in 587. According to the criteria of the ethanol board they can't buy any plant, they can't meet the criteria. Look at the bids, what it says, you have to have this information in within a week. You have to have all of this financial sheets and all these stuff in...

PRESIDENT: One minute.

SENATOR HABERMAN: ...in a week. Look at the other two bidders. Are there anybody that anybody has ever heard of? No. Pan

SENATOR HABERMAN: Well it's obvious I oppose the amendment, isn't it?

PRESIDENT: Could be. Thank you. Senator Dierks, please, followed by Senator Bernard-Stevens and Senator Hartnett. Senator Dierks.

SENATOR DIERKS: Question.

PRESIDENT: Question has been called. Do I see five hands? I don't see...I didn't see five hands. Now I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Rod Johnson, would you like to close please.

SENATOR R. JOHNSON: Yes, sir. And I'll try and do it as briefly as possible. Today we are considering putting \$10 million back into the checkoff program for the ethanol board to use in a way they see fit? This is the first time I can recall, since I've been a member of the Legislature, that we have debated how checkoff dollars will be spent, and that we are using, for the first time since I've been here, some legislative oversight over the checkoff organizations. It is interesting, at this particular point, that little or no funds have been expended at this point, yet we are all afraid of something that none of us have been able to put a finger on. Been a lot of comments relative to where the money can be expended or how it may be expended. Money cannot be used in an operation capital way, that is not permitted under the passage of LB 587 that Senator Haberman talked about. The purchasing of a new plant, an acquisition can be made by a city, county or village, but not by a private organization. Senator Schmit was correct in his statement that the three bids that are being considered by the FSLIC must put in their financial criteria to the FSLIC by May 23, 1989. If, at that time, none of the three bids are accepted, then I assume the process will go in such a fashion that the company will go into receivership and at that time further bids would be considered, most likely cash bids would be considered. Senator Schmit has also indicated two of the three bids that are being considered are out of state companies. Finally, as I listened to the comments made by some folks, there

develop the clean grain concept, to develop the utilization of by-products which were considered by the passage of LB 587 and to develop the ownership through a nonprofit public corporation as I have outlined in the proposal which was offered to FSLIC. It is not unusual, of course, for us to propose that a public corporation own this plant. Nebraska is the state of public power. It is a state which prides itself upon public power and the public ownership of power. It's sort of interesting that when I proposed selling the private...the public power entities to private investment that I was informed emphatically and repeatedly from many aspects that I was making a serious mistake. Therefore, it seems to me that since ethanol is power, ethanol is energy, and a few years ago we encouraged the public power districts to become involved in the ethanol industry, therefore, it is...it follows that the ownership of that plant by a public group would be a very likely step. Third, you might want to know where are the bids now, just what is the status of our bid and what is the status of the rest of the bids? I think it's important that you understand this. Our bid is the one which has put us in as one of the three final bidders. The FSLIC, as I understand, and John DeCamp as the lawyer for the firm, is no way a part of the bid except as a lawyer for me and this entity because he did it for me as a friend, the position, as it stands at the present time, is that the FSLIC has stated our bid, which was a cash bid and caused them to consider us as one of the final three bidders, is now subject to renegotiation. The terms which have been presented to us, and John has spoken at length with the FSLIC, the terms which have been presented to us, we think, may not make it feasible for us to buy the plant. It may not be economically feasible under those conditions. Therefore, we will make a counteroffer of something which we believe is reasonable, workable and financially has a chance of success. That bid may or may not be accepted and it may or may not require the assistance from the Ethanol Authority. We do not know now at the present time. More important than that, we are at the present time negotiating with several public entities to see if it's possible to put together a joint venture of the farmers of the State of Nebraska who have contributed the funds, whether they use any of the funds at this time or not, and some other public entity. We have discussed this with several entities at the present time. I'm not going to reveal those at this time but I just want to say they are involved in the public area and they are public entities. We want to see if it's possible, if it will be feasible, if it's desirable, to put together a group of entities in that manner that might be able

PRESIDENT: Thank you. Senator Morrissey, please, followed by Senator Schmit.

SENATOR MORRISSEY: Yes, Senator Schmit, a question. On the...you mentioned a confirmation of the Ethanol Board members by the Legislature. Could you expand on that a little bit?

SENATOR SCHMIT: Under LB 587, I took away the confirmation of Ethanol Authority members by the Legislature. This reinstates that language and at one time we did have in here language similar to the confirmation by Mr. Thorson that we used for the DEC where if no one was confirmed within 10 days the Governor had to appoint someone new. We removed that language.

SENATOR MORRISSEY: You removed that language so if...and the language you put back in is if they aren't confirmed by the Legislature then what?

SENATOR SCHMIT: Then you remain just the way they are today, Senator. And the reason I took that language out was that Senator Coordsen told me that his committee was going to do research this coming year on all such appointments and try to make them all consistent and compatible with each other and so I took it out.

SENATOR MORRISSEY: Okay, thank you. That's all I have.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: Well, Mr. President and members, as you know, the plant at Hastings has been a very, very deep concern of all of us, particularly of Senator Jacklyn Smith, whose district it is located in, and it is an area where we feel it is very important that we try to do something to encourage the sale of that plant. The plant, as you know at the present time, is an asset of FSLIC and we feel that this type of amendment will encourage that plant to get into private hands and get back into the mainstream so that they can, once again, hedge the purchase of their grain and the sale of their alcohol. It ought to encourage the expansion of the plant. We hope it will encourage the utilization of the new techniques, perhaps, in distillation, new techniques in the use of raw materials, new techniques in the use of distillers wet grains versus dry grains, many other aspects which we feel are very important if ethanol production is going to be profitable and economically feasible in the years

question again, it's relative to the amendment we adopted from Senator Schmit. There are several references to the Legislature, the majority of the Legislature approving confirmation of those who are appointed by the Governor to the...both the Gasohol Committee and the Ethanol Authority. Maybe, Loran, when you close you might mention why that has changed. Maybe it's just a technical change, I'm not sure. But I just was curious about that and I didn't get a chance to ask that question during the debate on the amendment. But that's all I have.

PRESIDENT: Senator Schmit. Would this be your closing, Senator Schmit? You're the last light.

SENATOR SCHMIT: I'll just answer Senator Rod Johnson's question, then let Senator Smith close on the bill. Senator Rod Johnson, I inadvertently took away that requirement last year, under LB 587, and did not intend to do so on some of those appointments. And so today, with this amendment, they are all subject to confirmation by a majority of the Legislature again, so that they are uniform, both with the Gasohol Committee and with the members of the Ethanol Authority.

PRESIDENT: Senator Smith, would you like to finish closing or do the closing?

SENATOR SMITH: Well, Mr. President, members of the body, as you all know, this is the ethanol production credit that we're offering to producers in the State of Nebraska. The purpose for that is so that we can be competitive with other states surrounding us. A number of other states in this area have provided that kind of production credit to their producers. And Nebraska, being at a competitive disadvantage is now importing ethanol. We're hoping that by providing this production credit we are placed on the same level as other states surrounding us are and that instead we can, in the end, sell more grain or buy more grain. The producers could buy more grain, we can have more development of plants. This can only benefit the farmers and in the end the economy of the State of Nebraska, and we can export our products rather than importing what we use here in the state. We ask your support in the adoption of the...or in the...I guess it's to move the bill. Thank you.

PRESIDENT: Thank you. The question is the advancement of 1124. All those in favor vote aye, opposed nay. Oh, all those in