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Floor Debate
March 22, 2011

[LB84 LB90A LB90 LB142 LB152 LB177 LB200A LB218 LB246 LB260 LB277 LB292
LB297 LB298 LB329 LB385 LB387A LB387 LB388A LB388 LB389 LB417 LB449
LB465 LB468 LB479 LB486 LB509 LB532 LB541 LB543 LB550 LB600 LB606 LB610
LB698 LR19CA LR22 LR45CA LR135 LR136]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-ninth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Father Paul Rutten of Lincoln, Senator Fulton's district. Please rise.

FATHER RUTTEN: (Prayer offered.)

SENATOR GLOOR: Thank you, Father. I call to order the forty-ninth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SENATOR GLOOR: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, a new A bill. Senator Council offers LB200A. (Read LB200A by title for the first time.) An amendment by Senator Nordquist to be printed to LB543. (Legislative Journal pages 905-906.) [LB200A LB543]

SENATOR GLOOR: (Doctor of the day introduced.) The Chair recognizes the Speaker, Senator Flood.

SPEAKER FLOOD: Good morning, everybody. We've got to remember to keep our voices down so we can do some business this morning. Thank you for paying attention. Real quick I want to give you kind of a brief outline of what the week is going to look like as it relates to our scheduling. Today, all day, obviously you see our agenda. I want you to pay special attention to the agenda as it relates to 1:30 this afternoon. We're going to switch and take up LB90 from Senator Harr; we'll move to LB509 from the Retirement Systems Committee; and then you'll note on the backside of your agenda we're going to return to the above agenda at the location left at noon recess. So we'll continue on where we left off after those two bills for the balance of the afternoon. Tomorrow morning we're going to continue with some General File debate. Tomorrow at 1:30,

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

Floor Debate
March 22, 2011

that's Wednesday at 1:30, we're going to take up some Select File. And then Thursday morning, starting at 9:00, we're going to take up Senator Fischer's LB84 as it relates to roads funding, with some General File behind that for the balance of the week. I wanted to give you kind of a road map so you knew where we were going to this week. Again we'll do today's agenda until 5:00 today. Tomorrow we'll continue with some General File. At 1:30 tomorrow we'll do Select File. And then on Thursday we'll take up LB84. With that, I appreciate everyone's attention and look forward to a productive week. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Mr. Speaker. Members, we now move to General File. Mr. Clerk.

CLERK: Mr. President, LB698, a bill introduced by Senator Christensen. (Read title.) The bill was introduced on January 19, referred to the Agriculture Committee, advanced to General File. I believe Senator Christensen opened on his bill. Senator Carlson, as Chair of the Agriculture Committee, offered the committee amendments as well, Mr. President. (AM650, Legislative Journal page 820.) [LB698]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Christensen, you're recognized to open on LB698. [LB698]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. I'm going to speak to the green introduced copy of LB698 and allow Senator Carlson to explain the Agriculture Committee amendment AM650, which I support. The purpose of LB698 is to address the coming federal changes in the ethanol industry by repealing the Nebraska law governing the labeling of motor fuels dispensers containing oxygenates--alcohol-blended fuels--which was enacted more than two decades ago. By doing so, the bill removes the unnecessary obstacle to further expansion of a growing industry in Nebraska and the difficulty of labeling the few blender pumps in Nebraska. Specifically, Section 66-1214 requires all fuel containing 1 percent or more alcohol to be labeled so at the fuel dispenser. The green copy of LB698 eliminates that labeling requirement. The bill also amends Section 89-186 of the Weights and Measures Act to exclude from the adoption by reference Section 2.20 of the Uniform Regulation for the Method of Sale of Commodities of the National Conference on Weights and Measures. Section 2.20 of the Uniform Regulation similarly requires dispenser pumps labeling of the oxygenate utilized in gasoline-oxygenate blends and requires suppliers to provide retailers with documentation of the oxygenate content of fuels upon delivery. Currently, there is no federal requirement that gasoline containing 10 percent ethanol or less be labeled. Several states, such as Michigan, Kansas, Missouri, and I think a total of 14 have increased their ethanol usage by removing labeling requirements altogether. They increased the usage of ethanol in their states by several percent; some by 10, 20 percent. Colorado does not require labeling of ethanol, and they have ethanol requirements in all motor fuels during the winter months to reduce smog and haze.

Floor Debate
March 22, 2011

Gasoline containing a 10 percent blend of ethanol has been marketed successfully in Nebraska for more than 30 years. Recently, the Environmental Protection Agency has ruled that gasoline containing a 10 percent blend of ethanol is essentially gasoline, with no restrictions on any model year of automobile. Ethanol is only one of nearly 300--300 different chemicals that comprise gasoline, but it is currently the only content in the fuel required to be labeled in Nebraska law, which many times comes across to a percent of the public as a warning label, instead of just an informational marketing tool for our homegrown product. Moreover, the EPA has recently approved a blend of 15 percent ethanol and gasoline. At this time, the EPA has not delivered labeling guidelines for E-15, but we expect those regulations will be coming soon. It is interesting that South Dakota has invested in blender pumps infrastructure, and the most used blend is the 30 percent blend with alcohol, which seems to be the optimum blend for benefit and performance. I want to make it clear, LB698 will still allow retailers to label their pumps containing 10 percent ethanol if they choose. I would also ask, how many of you have drove into a gas station and seen pumps marked "no alcohol"? There's no requirement to do that, but people still mark it. If your consumers wanted ethanol marked, they will mark it. If they want it marked "no alcohol," they mark it. That is America's business plan: you meet what your consumers want. Nebraska has invested over \$300 million in ethanol. We helped create the ethanol industry; now let's enhance the industry. Nebraska is the number two producer of ethanol in America. Why not be the leader with all vehicles using ethanol or our pumps open and allowing it? Where would the Nebraska budget be without the Nebraska ethanol industry and where would the usage of corn be? The price of corn would be down. State revenue correspondingly would be down, and our budget problems would be worse. We'd be making deeper cuts to balance the state budget. Let's open up an opportunity for increased production of ethanol, increased cattle feeding. The more ethanol plants we get, the more the gluten mill product is used, and the cattle industry likes the use of the ethanol by-product. It would also increase the state's revenue by the prices that's been driven. As ethanol production increases, so does the potential for increased cattle feeding. Right now, 1.55 billion bushels of corn is used in ethanol--about 32 percent of the crop. It is expected to go to 5.4 billion bushels by 2020. Nebraska ought to grab as much of that as we can, improving the homegrown product that we have in this state and making it a better state for us to live in with the revenues that come from it. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Christensen. (Visitors introduced.) As the Clerk stated, there are amendments from the Agriculture Committee. Senator Carlson, as Chair of that committee, you're recognized to open on the committee amendment. [LB698]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The committee amendment does two things. First, as introduced, LB698 would strike a requirement in 66-1214 for the dispenser labeling of fuels containing any amount of alcohol, 1 percent or more. The committee amendment would not delete this text but

Floor Debate
March 22, 2011

would change the threshold at which pump labeling is mandatory, beginning at blends greater than 10 percent--11 percent or more. This would be consistent with the pending label component EPA's E-15 waiver which will require fuels containing over 10 percent and up to 15 percent alcohol blend to have adequate disclosure. The committee amendment also narrows the exclusion of the referenced provision of the Uniform Packaging and Labeling Regulation of the National Conference on Weights and Measures as published in the National Institute on Standards and Technology Handbook 130. As you will note, this publication is current incorporated in its entirety by Section 89-186 of the Weights and Measures Act. Section 2 of the bill would omit Section 2.20 of the Uniform Regulation. Section 2.20 contains two provisions: 2.20.1, which similarly to 66-1214 requires the pump labeling disclosure of oxygenate additives. Section 2.20.2 imposes a requirement of suppliers to retail fuel sellers to provide appropriate documentation of oxygenate additives on commercial papers, including invoices, bill of labeling, and so forth. The committee amendment would only exclude from adoption under the Weights and Measures Act, Section 2.20.1, thereby retaining Section 2.20.2. The committee held a hearing on March 1 and advanced the bill by a vote of 6-2 on March 8. The committee amendment will address the concerns of one of the opponents and improve the bill from the point of view of the Petroleum Marketers Association. With this amendment, it changed the opposition of the Cooperative Council from opposing to a neutral position, and it also removed Farmers Union as an opponent of the bill. I believe that the Petroleum Marketers remain in opposition to the bill. Thank you for listening. I would ask for your support of AM650 and the underlying bill LB698. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Carlson. Members, you've heard the opening on LB698 and the amendment AM650. There are senators wishing to be recognized. Senator Hadley, you are recognized. [LB698]

SENATOR HADLEY: Mr. President and members of the body, good morning. Would Senator Christensen yield to questions? [LB698]

SENATOR GLOOR: Senator Christensen, will you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HADLEY: Senator Christensen, is the ethanol blend, is that...would it harm any of the cars, and I mean all the way from the 1936 Ford to the newest car? [LB698]

SENATOR CHRISTENSEN: No, it won't. EPA has released all vehicles, even the classics. If you go back to the beginning of the ethanol industry, ethanol was provided for vehicles back in the '30s. [LB698]

SENATOR HADLEY: How about for...there's been rumors about ethanol in small

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

Floor Debate
March 22, 2011

engines: chain saws, lawn mowers and such as that. Is there any potential harm to small engines? [LB698]

SENATOR CHRISTENSEN: We hear that a lot, but there's no facts behind that to prove that. I guess I'll give an example. I've got a 20-year-old Husqvarna chain saw that I've used, and about three years ago I told my wife: We've got to get a new chain saw. I can't fight this anymore; can't keep it running. Every time I go out to cut wood one time, it would have to be worked on again. And so finally I put ethanol in it. Believe it or not, for three years I've not had that chain saw back in the shop. It cleaned it up. It runs well and it's reduced my maintenance. So I've got evidence of a 20-year-old saw that actually runs better now. And there's people that will tell you the opposite, that they've had problems with it. I can't deny that people have had problems, but my experience and what we have found from EPA saying it is not harmful to engines, anything less than 10 percent, that I do not believe it's a concern. [LB698]

SENATOR HADLEY: Thank you, Senator Christensen. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Hadley. (Visitors introduced.) The Chair recognizes Senator Pahls. [LB698]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I do use ethanol in my car, but after hearing a couple of the comments that Senator Christensen made he made me sort of want to go back to the budget. And so I pulled up the preliminary budget and also the executive's budget, and I just have just some information I'd like to have maybe cleared up for me on the ethanol credits. And I was wondering if Senator Heidemann was on the floor? I saw him up here earlier. [LB698]

SENATOR GLOOR: Senator Heidemann, would you yield to a question? [LB698]

SENATOR PAHLS: I did see him up here. [LB698]

SENATOR GLOOR: I'm not seeing Senator Heidemann. [LB698]

SENATOR PAHLS: Okay. Well, then Senator Christensen. I don't mean to blindside you on this, but maybe you could help me out on this? [LB698]

SENATOR GLOOR: Senator Christensen, would you yield for a question? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR PAHLS: And I know your mind probably hasn't necessarily been focused on the budget, but I'm just curious, do you know the total amount of credits that we have

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

Floor Debate
March 22, 2011

given to the ethanol industry over the last few years? Do you have any idea? [LB698]

SENATOR CHRISTENSEN: Well, I'm assuming that was in my opening, the comments, that we've invested over \$300 million because of the credits. [LB698]

SENATOR PAHLS: Okay. So we have...what you're telling me, we have given to the people who have supplied ethanol for us, we have given them tax credits of \$300 million. [LB698]

SENATOR CHRISTENSEN: Correct. I believe that's correct. [LB698]

SENATOR PAHLS: Right. And again I'm just...I did not find that number, total number, on page 20 of the executive report or on the page 11 of the Appropriation's Committee's preliminary report. That's the number I was searching for. And it is my understanding that program ends, what, this year or next year? Do you know that as it's sunsetted? [LB698]

SENATOR CHRISTENSEN: Next year. [LB698]

SENATOR PAHLS: Okay. The credits go away next year. Do you anticipate, in your opinion, coming back and asking for more credits in the future, depending on if we do more E-85? Is that one of your goals? [LB698]

SENATOR CHRISTENSEN: I guess I haven't decided to bring any bill like that right now. I believe that typically you bring an incentive in to get an industry started, and then you hope to wean them off onto their own. [LB698]

SENATOR PAHLS: So, okay, that's what I was looking for. So you're telling me right now we are in the process of weaning the ethanol industry off of any incentives. [LB698]

SENATOR CHRISTENSEN: Well, I'm not speaking for the industry, because typically nobody wants to lose incentives. But I'm telling you at the present time, with the current budget situation, things like right now, they're going to have to sell me on the issue to change my mind. [LB698]

SENATOR PAHLS: Okay. Again let me ask you this, and it's not just directed towards you; I'm just trying to get this in the record. Then you probably, in your opinion we have been fair to the ethanol industry in the past? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR PAHLS: So that's like any incentives that we offer any organization: after a few years, they probably should sunset once they get legs. [LB698]

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

Floor Debate
March 22, 2011

SENATOR CHRISTENSEN: I don't have a problem with that. I think it's always good to have a sunset on these things because then the body has to come back and decide whether to renew them or not. [LB698]

SENATOR PAHLS: Okay. So perhaps you can see why sometimes in the past on legislation I have asked not to eliminate something but to put a sunset on it so that the body and the future senators have an option to take or to relook at some of the incentives that we have granted to different organizations, be it nonprofit, be they profit. Whatever the organization it is, we do need to think about okay, after a few years, stop, look, and listen. That doesn't mean you do away with them necessarily. But you may, if you found out that they are no longer... [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR PAHLS: Thank you...that they are no longer viable. Could I get you to be positive about that...comment on that statement? [LB698]

SENATOR CHRISTENSEN: Absolutely. I agree we need to...and that's why we put some sunsets on a couple of bills here recently, and I think it's an excellent thing because we do need that new look. [LB698]

SENATOR PAHLS: And I appreciate that, because like I say, I think that sunset, even though it may require future legislatures to do more work, but that's what we need. We need to constantly be looking at what we are setting people up in the future. It is not to say it's for today and forevermore, but there is a date that another body will have to take a look at some of the decisions that we are doing today that could affect future generations. And I appreciate...although I still have some questions about some of the expenditures that we've done in the area of ethanol... [LB698]

SENATOR GLOOR: Time, Senator. [LB698]

SENATOR PAHLS: Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Pahls. Treats are being handed out today in recognition of Senator McGill's birthday. Senator McGill is as old as she wants to be. (Laughter) Senators wishing to be recognized are Nelson, Carlson, Ken Haar, Wightman, Howard, and Harms. Senator Nelson. [LB698]

SENATOR NELSON: Thank you, Mr. President and members of the Legislature. I'd like to address a question or two to Senator Christensen if he will yield. [LB698]

SENATOR GLOOR: Senator Christensen, would you yield? [LB698]

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

Floor Debate
March 22, 2011

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR NELSON: Thank you, Senator Christensen. You made the statement in your opening that states have found that if they no longer label the ethanol on the pump, that it increases the use of the blended gasoline--gasoline blended with ethanol. Why would that be? [LB698]

SENATOR CHRISTENSEN: Well, I think there's a stigma when you see it says alcohol added. People think, well, if that's added, it's not good. So they avoid it, not knowing it's actually better for the economy...or environment, and still good for your vehicle. [LB698]

SENATOR NELSON: All right. Well, I'm certainly supportive of the continued use of ethanol blend and the increased use. There's no question about that. Generally, when you go to a pump, you have three nozzles. You've got the one with 10 percent ethanol and then I guess regular gas and then the leaded gas. Is that correct? [LB698]

SENATOR CHRISTENSEN: Well, no. It would be the premium--there is no leaded no more. [LB698]

SENATOR NELSON: All right, premium. Premium gas. That's not...that's the most expensive, right? [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR NELSON: And then that's generally to the right. In the middle then would be whatever you call it... [LB698]

SENATOR CHRISTENSEN: The ethanol. [LB698]

SENATOR NELSON: No. The...well, it could. Or the ethanol often I see it on the left; maybe in Omaha anyway. There's a price differential when you've got the blend, generally like 8 or 10 cents lower. Would that be correct? [LB698]

SENATOR CHRISTENSEN: That is true. [LB698]

SENATOR NELSON: Is that going to be the only way you're going to identify then on the pump that that contains the ethanol--the differential in the price? [LB698]

SENATOR CHRISTENSEN: No, there's also the octane rating. When you look at a...in Colorado, 85 percent; in Nebraska, 87 percent generally is your unleaded. And when you get to 89 is the ethanol and your premium is 91. [LB698]

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

Floor Debate
March 22, 2011

SENATOR NELSON: Well, you're going to have to know that the ethanol gasoline has a higher octane rating. Do you think most people would know that? [LB698]

SENATOR CHRISTENSEN: Well, I think if people have a concern, they will study up on it and know that. [LB698]

SENATOR NELSON: Okay. Is there a possibility down the road that we might see no differential in price between that, that has up to 10 percent of ethanol in, and the gasoline that does not? [LB698]

SENATOR CHRISTENSEN: Well, it's always possible and it's always subject to the price of corn and stuff driving the price of ethanol affects that blended price as well as crude affects both. So typically it just comes down to difference in corn price to see if there is a benefit to the ethanol blend. [LB698]

SENATOR NELSON: But you think just with regard to the competition between different stations and distributors that there would always be the lower price if you have a cheaper product because of the ethanol blend in there. Is that your conclusion? [LB698]

SENATOR CHRISTENSEN: I believe so. It should be that way and consumers should demand it. But I was at a gas station yesterday that the unleaded was 2 cents cheaper than the ethanol. Why, I don't know, when most pumps are 8-10 cheaper. But I did see that in a town yesterday. [LB698]

SENATOR NELSON: Well, I've seen that too. So it looks to me like you're either going to have to look at the octane rating, or sometimes they label their gasoline: silver, gold, premium, or something like that. So you would have to know where you are and what your station you're buying your gas at. [LB698]

SENATOR CHRISTENSEN: Correct. And any station will tell you if you ask them. And what we've got to remember: this only removes the requirement to label. So you can still label it ethanol, if you want, as you see stations that label "no alcohol." I see that at a number of stations. [LB698]

SENATOR GLOOR: One minute, Senators. [LB698]

SENATOR CHRISTENSEN: That is open to do also. [LB698]

SENATOR NELSON: All right. Thank you, Senator Christensen. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Nelson. Senator Carlson, you are recognized. [LB698]

Floor Debate
March 22, 2011

SENATOR CARLSON: Mr. President and members of the Legislature, of course I stand in support of LB698 and the underlying amendment AM650. I think it's good to remind ourselves that agriculture is our number one industry in Nebraska, and I think it's our responsibility to make decisions that help enhance the circumstances under which agriculture is conducted in our state, and I think ethanol certainly enters the picture here. Now it should be very clear and we all need to understand that LB698 gives options to those who sell fuel. It does not restrict them. It gives them options. Those who want to label blends under 11 percent of ethanol can continue to do that. They're not restricted. Those who don't want to label blends under 11 percent may decide not to, but they have the option. And performance isn't proven to be negatively affected by ethanol. The question came up about smaller engines and so forth. I didn't even give it a thought from the time that I could consciously make a decision as to what fuel I'm going to buy, I buy ethanol. So when I bought a new lawn mower and went to get fuel for it, I didn't even think about anything other than ethanol. That's what I've been using. There's no problem with the performance there on a small engine. At the present time, in Nebraska, about 75 percent of the fuel sold is ethanol blended. It's believed by those in the ethanol business that if we pass LB698, we have a chance of increasing above 75 percent the fuel that's bought that would be ethanol blended. It's not a guarantee. Michigan, for example, that passed a similar law, found that their sales of ethanol went up. I understand that about nationwide...or nationwide, about 10 percent of the fuel sold is ethanol blended--not nearly what it is in Nebraska. But if you take the total fuel sold in the United States and 10 percent of it is ethanol, that is a huge market, and we have a chance I think of increasing that. And certainly it's cleaner burning. It's good for the environment. I think it's the right thing to do. Now many of us price shop when we purchase gasoline. I do. I'm going to buy ethanol regardless, but I think men in particular are kind of funny about this. We look and see, and if it's a penny difference, we'll drive two blocks extra in order to buy gas for a penny less. Well, as Senator Nelson just discussed a little bit, if premium gasoline has an octane rating of 91; regular unleaded, 87; and an ethanol blend of about 89, that must mean something. Now the circumstance exists today that if you drive into a station, you might find that ethanol is higher priced. I don't understand that. It's cheaper for an oil company to buy ethanol and blend it than to have it not blended. It's cheaper for them. But this is America. If they want to charge more for ethanol and we're willing to pay for it, I don't think we want legislation that would say you can't do that. But I think the market is going to dictate the price. And if someone along the street decides to charge more for ethanol blended and the establishment across the street goes the other way... [LB698]

SENATOR GLOOR: One minute, Senator. [LB698]

SENATOR CARLSON: ...and charges according to what the real cost is, ethanol will be less expensive. And most people shop by price. I think there is logic that in the passage of LB698 we would possibly see more ethanol sold in Nebraska. If that's the outcome I

Floor Debate
March 22, 2011

think that's good for agriculture. I think that's good for Nebraska, and so I would ask for your support. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Carlson. Senators wishing to be heard are Ken Haar, Wightman, Howard, Harms, Christensen, Wallman, and others. Senator Haar, you're recognized. [LB698]

SENATOR HAAR: Mr. President and members of the body, just to begin with, those of you who were at the Democratic salute to state senator will understand my question to Senator McGill. Ah, she's not here. I was going to ask her whether she wanted me to sing her "Happy Birthday" on or off mike. But (laugh) I'll do that off mike. I have some questions for Senator Christensen, please. [LB698]

SENATOR GLOOR: Senator Christensen, would you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HAAR: I'm going to be up a couple of times because I have some things to learn yet about this. The \$300 million investment that the state has made in ethanol, could you tell me a breakdown of that? Has it all been tax incentives, or how is that \$300 million spent? [LB698]

SENATOR CHRISTENSEN: Well, \$150 million has been General Funds that has been tax incentives, credits to the industry, and \$150 million has been checkoff funds--corn checkoff. [LB698]

SENATOR HAAR: Okay. Okay, corn checkoff. So half of that actually came from the corn growers themselves. [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR HAAR: Okay. That's important. Explain to me...and I think Senator Christensen talked about this, but why is plus cheaper at most gas stations? [LB698]

SENATOR CHRISTENSEN: Because when you add the alcohol in, which can be made cheaper than crude oil is, it lowers the price of the gasoline with the blend, and that's why the price comes down. [LB698]

SENATOR HAAR: Okay. Well, the scientist part of me...I've run some experiments on my own two vehicles. One is a Honda Civic and the other is a 1998 Plymouth Voyager minivan. And I actually get less miles per gallon on the plus, and it's cheaper. But when I balance those two, at least in the sort of experiments that I've run, it's a little cheaper for me to actually buy regular. Do you know of any research on that basis? [LB698]

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

Floor Debate
March 22, 2011

SENATOR CHRISTENSEN: I guess I can't address it other than what I've done personally. And mine has depended upon the different vehicles. I happen to have a Pontiac Vibe that I drive to the Legislature. It says it requires premium fuel. And if I put in premium, I'll run from four to six miles a gallon better than I will over E-10 or unleaded. And actually on that particular vehicle, the E-10 will even be a mile per gallon less than the E-10. And why, I don't know. When I go to my Suburbans--and I have two of them currently. I have had a number of them. And they have all done as well or better on E-10 than they have unleaded, and I've never had an increased boost by burning premium, because I have tried that. There is another blend that I can pick up in a station in Kearney that's got 24 percent alcohol. And when I put that in my Pontiac Vibe that I talked about, I will get equal mileage to premium, but yet the E-10 gets less. I have not been able to figure that out. But I had a gentleman one time tell me that if you'll run from 25-30 percent alcohol, you'll get the highest mileage and the best bang for your buck. And I have done it three times now where that has been the case, even in my Vibe that didn't like E-10 but did...loves premium, liked the E-24. [LB698]

SENATOR HAAR: Okay. And of course, Senator, this was at speed limits...at the regular speed limit? (Laugh) [LB698]

SENATOR CHRISTENSEN: Or close. [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR HAAR: I would really appreciate...I'm going to get up and ask some more questions. I would appreciate if we could be shown some kind of research that's been done on this issue, because with tight budgets and so on, in Nebraska, I think people have a right to know where they're going to get the best bang for their buck. Thank you very much. [LB698]

SENATOR GLOOR: Thank you, Senator Haar. The Chair recognizes Senator Wightman. [LB698]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. If Senator Christensen would yield, I'd have a few questions of him. [LB698]

SENATOR GLOOR: Senator Christensen, will you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR WIGHTMAN: And, Senator, I know you discussed this some with Senator Nelson briefly, that there will still be...it won't reflect that it's alcohol blend, but anything 10 percent or under may still have a separate designation, such as super unleaded, that

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

Floor Debate
March 22, 2011

there wouldn't be anything in the legislation that would change that. Is that correct?
[LB698]

SENATOR CHRISTENSEN: That's correct. [LB698]

SENATOR WIGHTMAN: And I also understand that this is optional with regard to the fuel dealer. He can label it if he wants to, but he doesn't have to label it. [LB698]

SENATOR CHRISTENSEN: That is correct. [LB698]

SENATOR WIGHTMAN: Maybe I could shed a little issue...a little information with regard to when corn was high enough that actually ethanol did become higher. And I think...and Senator, you can correct me if that's incorrect, but I remember in the spring of 2008, I believe it was, when corn briefly shot up to about \$7 a bushel because of short supplies, and the land market reflected that for a short while, that actually with that \$7 corn it seemed to me that a lot of stations got to the point where they were almost identical prices for ethanol and regular unleaded. Do you recall that or...? [LB698]

SENATOR CHRISTENSEN: I do, and that has happened several different times in history. [LB698]

SENATOR WIGHTMAN: But that was probably the worst instance. I think our oil was cheaper then than it is now, so...than crude oil, so it may well be that that's not happening this time. I still see there's about a 10-cent differential. Is that correct?
[LB698]

SENATOR CHRISTENSEN: That is correct. [LB698]

SENATOR WIGHTMAN: But actually the high cost of corn can get to the point, particularly with relationship to crude oil prices, that you could actually have higher prices. Maybe it doesn't happen often but it has happened. [LB698]

SENATOR CHRISTENSEN: It has happened. And yes it can. [LB698]

SENATOR WIGHTMAN: So that would be one of the drivers, is a comparison that...the price driver would be the comparison between the price of corn at a given time in combination with the price of crude oil. [LB698]

SENATOR CHRISTENSEN: That's correct. [LB698]

SENATOR WIGHTMAN: I was listening but didn't catch all of your conversation a moment ago with Senator Haar, but you indicated that as you go up from the 10 percent blend, maybe to as high as 25 percent, that actually the efficiency of the super unleaded

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

Floor Debate
March 22, 2011

or ethanol blend actually improves. Is that correct? [LB698]

SENATOR CHRISTENSEN: That's correct. [LB698]

SENATOR WIGHTMAN: Is there research that bears that out or is that just your own experience or...? [LB698]

SENATOR CHRISTENSEN: Well, I've got my own experience I tried, and then I've never seen it written. I've had people in the industry tell me that 10 percent is one of your worst gas mileage, and if you...as you go up to 30 percent it gets better. But I've not seen a study done on it, so that's why I've been experimenting on my own vehicles whenever I have an opportunity to fill at different levels of alcohol in the fuel. [LB698]

SENATOR WIGHTMAN: And then you've indicated that today's small engines in most instances would not be damaged at all by the use of a 10 percent, or less, blend. Is that correct? [LB698]

SENATOR CHRISTENSEN: That's correct. And you've got a handout here that I've just handed out on the floor of all the different manufacturers that list if E-10 is okay in their small engines, in their owner's manual. And if says NM, it's not mentioned in the owner's manual. [LB698]

SENATOR WIGHTMAN: Okay. [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR WIGHTMAN: Thank you, Senator Christensen, and that concludes what I have at this time. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Wightman. The Chair recognizes Senator Howard. [LB698]

SENATOR HOWARD: Thank you, Mr. President and members of the body. As I've mentioned before on the floor, and some of you may remember, my extended family owns a service station up in Benson in Omaha. And while I wish I knew more about auto mechanics, I have learned some things from being up there. I am very concerned if we're going to give up the labeling on these pumps, that the average person isn't going to be studying up on the alcohol content or the ethanol content in the fuel. We've done some just random studies and would have to verify what Senator Ken Haar has said in terms of your mileage. And that is, while the ethanol costs less, every individual who has sort of informed us at the station has said that they get less gas mileage off of this. And so while you're saving at the pump, you're actually not saving in terms of the miles per gallon that you're able to get. I also wouldn't count on the factor of the price

Floor Debate
March 22, 2011

difference telling you which fuel has this additive or this ethanol added to it. I was shocked the first time I went to get gas in Chicago--and actually the pricing is reversed. It's 10 cents more there for the ethanol gas than it is the unleaded, and I was just shocked. I had gotten so used to seeing it back here that the ethanol gas was cheaper. And so you can't rely on that as your means of knowing what fuel you're putting in your tank. And the third thing I would say to you along these lines is that we've always cautioned people...or I've always certainly been cautioned by my family that when you put either unleaded or ethanol into your tank, you need to stick with that. You've made a commitment to use that fuel and that's what that car is going to run on. And I've been very careful about that and never had a problem with my Honda. But you need to know. And I'm concerned if this is in any way going to limit the information that's available for the driver that pulls up to the pump. Sure, you could go into the station and say: I don't know which is unleaded here, there's some choices. But in the morning when you're in a hurry, you want to fill the car; you put in your charge card. You need to have that information right there so you're not making a mistake because you're trying to cut corners with time. If Senator Christensen would yield to a question? [LB698]

SENATOR GLOOR: Senator Christensen, would you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HOWARD: Thank you. To help me better understand this, what percentage right now would I expect to see as an ethanol product in the ethanol-enhanced gas? Would it be 1 percent, 2 percent? What would be the average? [LB698]

SENATOR CHRISTENSEN: Ten percent is when you find a blend. Right now, there's two of them in the state, unless you go to a blender pump or a specific pump as I mentioned. It's 10 percent or E-85, which is 85 percent alcohol. [LB698]

SENATOR HOWARD: Well, then the amendment that specifies 11 percent or more really, as I read it or as I understand it, would exempt most gas stations from having to put that information on the pump. Would that be correct? [LB698]

SENATOR CHRISTENSEN: That's correct. [LB698]

SENATOR HOWARD: So when I would pull in, I would see these choices--and I would want regular gas. How would I know? [LB698]

SENATOR CHRISTENSEN: You can tell by the octane rating and...or you could ask the station owner, because typically you're going to have 87 percent is not in this state; 89 percent is going to be...octane is going to be the super unleaded. You're still going to have unleaded marked on the pump... [LB698]

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

Floor Debate
March 22, 2011

SENATOR GLOOR: One minute. [LB698]

SENATOR CHRISTENSEN: ...super unleaded, premium, and you know it's the unleaded that don't have the alcohol in it. [LB698]

SENATOR HOWARD: Well, I don't want to give you the impression that I haven't thoroughly studied this, but I would have no idea what the octane rating is for the gas, and I think I'm not alone in that operating by guess as to the octane level. I would find this puzzling. I would find this taking away information that I'd like to have clearly spelled out right in front of me when I pull up. I'm glad to know that when I look at the pumps, unless I'm not paying attention, but I know which one I'm putting in my car. Without this labeling I think we're just going to be guessing. If you have a response to that? [LB698]

SENATOR CHRISTENSEN: Well, I'm going to address that in my next time speaking, because there's 300 different chemicals in gasoline. Some of them get as high as 5 and 7 percent in other things that aren't labeled either. And it varies some by state also which I'll address. [LB698]

SENATOR GLOOR: Time, Senators. [LB698]

SENATOR HOWARD: Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Howard and Senator Christensen. Senator Harms, you are recognized. [LB698]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM650 and the underlying bill LB698. Senator Bloomfield, would you yield for just a minute, please? [LB698]

SENATOR GLOOR: Senator Bloomfield, would you yield to a question from Senator Harms? [LB698]

SENATOR BLOOMFIELD: Yes, sir. [LB698]

SENATOR HARMS: I noticed on the committee statement that you opposed this or you didn't vote for it. Could you maybe share what your thoughts and views were about this piece of legislation? [LB698]

SENATOR BLOOMFIELD: My primary concern was basically a truth in advertising. I use ethanol in my vehicles. I drive in; I look for it. If I don't see it, I move to the cheapest fuel, which they tell me is ethanol, but I don't know that. If I drive in and I don't see ethanol, I usually go down the street until I find it. I see it as a truth in advertising issue. Let them tell us what's in there. We're told that there are 300 other additives, some of

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

Floor Debate
March 22, 2011

them get up to 5 percent. We're talking 10 percent here. Of those 300, I don't know how many are 1 percent or less. Ethanol, we're talking about something we're adding at 10 percent and we're not telling people about it with this law. [LB698]

SENATOR HARMS: Well, thank you very much. Senator Karpisek, would you yield just for a question? [LB698]

SENATOR GLOOR: Senator Karpisek, would you yield to a question from Senator Harms? [LB698]

SENATOR KARPISEK: Yes, I will. [LB698]

SENATOR HARMS: Senator Karpisek, I'd like to ask the same question: What was your opposition in regard to LB698? [LB698]

SENATOR KARPISEK: I think just what Senator Bloomfield said: the truth in labeling aspect of this. I completely support ethanol and I have my light on, but I think that this is putting it in and people won't have a choice, and I think that you should know what you're buying. [LB698]

SENATOR HARMS: Thank you, Senator. Senator Christensen, would you yield? [LB698]

SENATOR GLOOR: Senator Christensen, would you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HARMS: Senator Christensen, as we look at this legislation LB698, are there any other states that have gone this direction that are making the same recommendations or already have it implemented into their state system? [LB698]

SENATOR CHRISTENSEN: There are 14 states, including Kansas, Missouri, Michigan...I don't have the full list here in front of me but I'll keep digging. As I find them I'll bring them up on my time. [LB698]

SENATOR HARMS: Senator Christensen, in this process did they have any of the same issues and concerns that we've heard here? Has it had any difference in their marketing or people purchasing that for blended fuel? [LB698]

SENATOR CHRISTENSEN: Yes, there's been these concerns in every state. But as I had mentioned, Colorado was one that mandates a minimum of 10 percent in every level through the winter months because of smog control. [LB698]

Floor Debate
March 22, 2011

SENATOR HARMS: So bottom line, because that's what it always boils down to in regard to whatever we do, are they still making a profit? Are people still purchasing that gas? [LB698]

SENATOR CHRISTENSEN: Absolutely. [LB698]

SENATOR HARMS: Well, that's what I wanted. Thank you very much. I would urge you to support AM650, the amendment, as well as the underlying bill LB698. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Harms. The Chair recognizes Senator Christensen. [LB698]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'll list off them states that now have the...don't have retail label requirements. That's California, District of Columbia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New Jersey, New Mexico--make sure I come across the same line here--North Carolina, Ohio are the states currently that don't require labeling of alcohol. And I want to make sure everybody looked at this sheet that I handed out on the small engines, because I'm sure you guys had the same e-mails I did over the weekend for classic cars and for small engines. But those that have E-10 approved, you can just come down through here: American Yard Produce; Ariens; Troy-Bilt; Briggs and Stratton; Coleman; Dixon; Echo; Homelite; Honda; John Deere; Kawasaki; Kohler; Lawnboy; McCulloch; MTD; Onan; Ryobi; Sears. I mean it just goes on, they list it, you know. And some people have said, well, no motorcycles allow it, but here's E-10 unleaded in motorcycles. Following are excerpts from motorcycle...I'll have to put my glasses on, that's small print, motorcycle owner's manual requiring the use of E-10: Harley-Davidson; Honda; Kawasaki; Suzuki; Yamaha. You know, it is, as it's being tested across all the different types of engines--motorcycles, chain saws, lawn mowers--it's finding wide acceptance. And as we continue...as people continue to test it, we're finding out there is not the problems of the horror stories that we've heard in the past. And so I just continue to talk about...a little has been mentioned here this morning about truth in advertising. Senator say he wants to know what is in his gasoline. Well, I'll tell him some of the elements contained in his gasoline: benzene, up to 5 percent by volume--ten times the amount allowed by law in the state of California; up to 35 percent toluene by volume; and up to 1 percent trimethylbenzene. That's just a few more of the 300 components in gasoline. How many of these would you like labeled on the pump? In addition to knowing what's in your gasoline, you might want to know where your gasoline comes from. Maybe there should be a label on the pump which states where the 10 percent of this gasoline has come from: Libya; 20 percent from Saudi Arabia; 5 percent from President Chavez down in Argentina (sic). That might be reassuring to Nebraskans. Oh, yes, there could be as much as E-85 pumping the stations in which states 85 percent of the fuel was produced in Nebraska, from Nebraska products with

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

Floor Debate
March 22, 2011

Nebraska labor. It would be interesting to see the public's reaction to this information. If we want to be serious about providing information to the public, there is a lot of information the public could benefit from. And I know it would affect how I buy gasoline if I knew what country it come from, because as I look at it, I get tired of going over and fighting in other countries to secure our production... [LB698]

SENATOR GLOOR: One minute, Senator. [LB698]

SENATOR CHRISTENSEN: ...of crude oil to come over. So I would find that very interesting, you know. But just staying with the topic here, ethanol has become widely accepted. We are the second largest producers and that's why I continue to encourage people to pass this bill and move it forward. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Christensen. An announcement, Mr. Clerk. [LB698]

ASSISTANT CLERK: Mr. President, the Revenue Committee will meet in Executive Session in Room 2022 at 11:00.

SENATOR GLOOR: Thank you, Mr. Clerk. Senators wishing to be recognized are Karpisek, Hansen, Krist, Pahls, Ken Haar, Carlson, Wightman, and others. Senator Karpisek, you are recognized. [LB698]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. As I said previously, I completely support ethanol. I burn ethanol in my car. My friends burn ethanol in their cars. I think it's a great thing and I think Senator Christensen is absolutely correct. Where would we be if our ag prices weren't where they are right now? And I'm very happy that they are where they are. The farmers are doing better. They're buying equipment. We just saw in the paper the other day that they're buying more equipment. Face it folks, the farm community drives the economy of this state. When the farmers make money, they come to town; they buy things. That transfers on. I'm in favor of E-15. I hope that that gets going soon. I would be in favor of E-30. I don't really know where that right amount is. As Senator Christensen said, he's been kind of experimenting around with it. I have not. But I think blender pumps are our way that we need to go to get ethanol up. I am not in favor of taking the label off. To me, it is just a truth in labeling issue. And I know that we've heard, well, there's 300 other things in ethanol...or sorry, in gasoline. I don't think any of them reach 10 percent. I think if someone pulls up to the pump and they buy gas, they should know that if there's ethanol in it or not. Some people don't like ethanol. Why? I don't know. I know there's a lot of myths out there. I've been trying to look up the small engine story, and I know Senator Christensen passed out a memo this morning. I appreciate that. I think we've all gotten a lot of e-mails from antique car owners. Now is that true? Does it really bother those cars? I don't know that, but it sure seems, if nothing else, there is the opinion that

Floor Debate
March 22, 2011

it does. I think when you go to buy something, you want to know what is in it. Now I don't care if there's half a percent of something in something I buy. I don't think we need to list all 300 things. But when you buy a food product, it has to be labeled. You see what all is in there because there may be something you don't want. There may be something you're allergic to. I think that everything needs to have the label on it. Again as I understand this, E-15 would be labeled still when we get there. E-85 would be labeled. But if you go to a pump that isn't labeled, you don't know if you're getting 10 percent ethanol or 0 percent ethanol. Now I realize that that would fall back to the pump or the pump owners. And I'm sure that some would advertise and market 0 ethanol. But is that what we have to do for that? I don't think that that's the right way to go. Again I know I'm going to get blasted for being against ethanol. Not my intent at all. I want to burn as much ethanol as we can. But let's just make it so we know what it is. I think there's about 25 percent of people that don't burn ethanol right now. To me, that's up to them. They don't have to if they don't want to. This is making them do it, pretty much. If you have one gas station in town, are they going to carry, specially, no ethanol fuel? [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR KARPISEK: I don't know. That gets into a bigger question of transporting the gas and all those sort of things. Again I know that there's going to be blowback on this and I apologize now, but let's be proud of our ethanol. Let's try to do it so people know what they're buying and enough of us will keep buying it. And if we can get up to the 15 percent, it's going to completely change the whole landscape. We're going to sell a lot more ethanol. And let's try to work on getting some blender pumps, so if people want to run 50-50, they can. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Hansen, you are recognized. [LB698]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. Going back to what Senator Pahls brought up earlier about the EPIC funds. Since 1991, through June of next year, there will be spent about \$299 million, and Senator Christensen was correct that it was about \$300 million. And just a list of those groups that did put money in the transfer from the Ethanol Authority Fund in 1991 through 1993 was \$19 million. So they certainly put some of their own money in there. There was a fertilizer fee. Grain and sorghum checkoff has amounted to \$140 million. So that's by far the largest group. So they invested money in their own industry, which is great. General Fund transfers, 1998 through next summer, is about \$95 million...a little over \$95 million. Fund interest income, about \$13 million. They all total up to about \$299 million, which is quite an incentive for I believe it's 24 ethanol plants. But I don't think...I don't want to talk about the ethanol, the benefits of ethanol or the detractions of ethanol or the history of ethanol. We need to talk about what's on the pump. And I think that the pump,

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

Floor Debate
March 22, 2011

if we're weaning anything, we're weaning people off of regular gas, and Senator Carlson made a reference to that a little bit ago. But I'm not sure we need to do that. The East Coast, the West Coast, they both need the ethanol because of pollution. The federal government took away the additive, whatever it was before ethanol came about. So ethanol certainly plays a part in that. But we still need to...I think that we need to label the pumps. The E-85 pumps are labeled and I think they will continue to be labeled because you have to have a certain car. You can't buy just on price. I'm not sure that price is the ultimate issue when we are talking about buying this and looking at it, going through different filling stations looking for the best price. I was wondering if Senator Carlson was available for a question? [LB698]

SENATOR GLOOR: Senator Carlson, would you yield for a question? [LB698]

SENATOR HANSEN: Run, Tom, run. (Laughter) [LB698]

SENATOR CARLSON: Yes, I will. [LB698]

SENATOR HANSEN: Thank you. Senator Carlson, I have a few questions here about the actual labeling. And would you say in your past actions on the floor, are you pro-choice? [LB698]

SENATOR CARLSON: (Laughter) I like choices. Yes. [LB698]

SENATOR HANSEN: All right. I'm pro-choice, too, and that's why I want these pumps labeled. Price is not the utmost concern, and that I'll let you have a little bit of time, but you already said how you drive through filling station to filling station and spend a couple bucks looking for the lowest price to save a buck and a half. And I understand that concept because I am married to a shopper also. Old cars with matching numbered engines, prior to 2000, those engines don't like the ethanol. They need to be marked somehow. Or those folks with those older cars and older tractors, and I'm talking about some of the pickups that we use on a daily basis were built before 2000. They were built for unleaded gas but not necessarily the ethanol, and it needs marked in the pump. When we have bulk gasoline brought out, I request, because I have the choice, I choose regular gas because of some of those older vehicles that we do at the ranch that we fill up out there. [LB698]

SENATOR GLOOR: One minute, Senators. [LB698]

SENATOR HANSEN: Could you respond to any of that, the old cars or the bulk gas, and...? But please relate it to the pump and that's where I'm trying to go, that I think that we need a label on the pump. [LB698]

SENATOR CARLSON: Okay. Because my first response was going to be, when you

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

Floor Debate
March 22, 2011

call in and ask for regular unleaded to be brought out to you, you don't see the pump. You just ask for it and then you assume that that's what you're getting. So if someone would drive up and not see anything labeled on the pump, go in and ask which one is ethanol, they should be told the truth which one is unleaded regular, or, of course, they're going to know premium by price. But unleaded regular, they should be told the truth, and they can go out and use that fuel. Now do you want me to stop or are you giving me some more time? [LB698]

SENATOR HANSEN: No, go ahead. I think you've just got a few seconds. [LB698]

SENATOR CARLSON: Okay. I think that the point is, in this bill it does not require... [LB698]

SENATOR GLOOR: Time, Senators. [LB698]

SENATOR HANSEN: Thank you. [LB698]

SENATOR GLOOR: Senator Krist, you're recognized. [LB698]

SENATOR KRIST: Good morning, Mr. President and members of the body. I wasn't going to speak on this but I think that there's been a little misinformation, not intentional, but I think there are things that we need to consider. First of all, Senator Carlson had said that older engines, smaller engines, were not affected. I can tell you that my 1980 80-horse Mercury outboard is adversely affected when I use ethanol in a mixture in the engine. I can tell you that because I've had to rebuild the carburetor two or three times when the kids put the wrong fuel in the outboard. So you have to know what you're putting in your tank. I'm not arguing that this labeling process should or should not happen. I'm just saying that it's something that you should realize. Not everyone is advantaged enough to have something newer than 1998, which I believe if you do some research, 1998 is about the point where there were some internal components to carburetion systems and fuel lines that were different than in previous years, allowing for ethanol to be used, and that was not made across the board. I believe you need to know what you're putting in your tank the same way you need to know what you're putting in your body. Now whether that needs to be labeled--and Senator Christensen is absolutely right. Do you want to label all 100-plus items that are in? Do you want to know where it came from so that you're geopolitically correct and not supporting a terrorist? Are we protecting everyone from themselves? That's a decision you're going to have to make when you punch red or green. But I'm here to tell you that I did some test flying early on with an ethanol product in an airplane. And you can argue about 10 percent and your engine stalling out on the ground or is 15 percent an optimum blend, but at 5,000 feet, when you lose compression and you lose spark, it's a big deal. It's kind of a pants-filling deal if you know what I mean. So my point is that you have to know what you're ordering, whether you're ordering it in large tanks coming to the farm,

Floor Debate
March 22, 2011

whether you're buying it out of the pump, or whether you're involved with test flying or testing of that product, you have to know where it comes from. Will this actually allow more producers to do something they're not supposed to do and not report the proper blend? I don't know the answer to that. I'm not ready to vote red or green myself. But I will tell you this also: in my test and development in a prior life, there are much better things than ethanol on their way. Ethanol is a great stepping stone. But if you get to the point where you're mixing higher grade alcohols through a gasification process, and it's called octanol, you basically can power something by itself if you can afford for the lubricity of the engine. This is a subject matter that I have some background with and I will tell you that ethanol is a stepping stone to get to where we can be geopolitically independent of people who will hold oil over our heads and we will lose our young people going over and defending that right. That technology is driven in different spurts by how much someone wants to gouge you at the gas pump. Next year I intend to come back with a bill that may, in fact, energize the University of Nebraska, who already are doing wonderful things in research. But let me not digress. The point of this is, do we have to label in terms of the consumer...should we label in terms of protection for the consumer? Should we see what we're putting in our tank or in our body? Again I've not made my mind up yet but I thought... [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR KRIST: ...it was a--thank you, Mr. President. I thought it was important that we talk about those kinds of things as we make this decision. In closing, I will say this: If we continue to remove the labels...if we remove the labels or if we continue to remove the process by which we are a nation's leader in the ethanol industry, then I think we will be suspect. And for that reason I'm leaning towards the red. After all, it was 30-some years ago when this Legislature...30-plus years ago when this Legislature, our predecessors, formed the Ethanol Board--one of the first in the nation. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator. Senator Pahls, you're recognized. [LB698]

SENATOR PAHLS: Good morning, Mr. President and members of the body. I just pulled up, a while back, the article, news article, from the World-Herald on March 11, entitled "Ethanol or regular unleaded?" And after rereading the article, it was interesting because it is a mixed bag of the good, the bad, the ugly of both sides. But one thing that intrigued me in here, one of the individuals who made a comment, because that's part of his business, he says most people go there for the...they're looking at the price, that's what they're looking at. And that's just a fact of life. But another thing I thought was very interesting, you know, we're talking about, like I say, which is more or which is better than the other? And the, in some of their studies, the Environmental Protection Agency said to a greater extent it's the type of engine; your driving habits--not mine, of course; weather conditions; and vehicle maintenance actually does...that actually makes the

Floor Debate
March 22, 2011

difference of which type of gas you utilize. And I think most of us know that if you put your foot heavy on the accelerator, you probably will use more gas and will be inefficient. It may get you there faster. But one thing that intrigued me earlier, when the question was asked of Senator Bloomfield, why he voted the way he did on this, and he said, well, basically, truth in marketing. Now that did hit me a little bit there, because that, in his past experiences, in his profession, I'm sure he always was looking for what would be the best...not for him personally, but for his vehicles, etcetera. So that did make me sort of sway on how I would vote, because I do think...I use ethanol in my car. I drive up to the gas and I look for the 10 percent. I don't see that as a negative thing. And then perhaps that is because I want to support the ethanol industry. That doesn't play on me at all. And I have cars all the way from a '51 to 2005, and I don't know if it harms those in the...since they do...the old carburetor, that may do some harm to them, but they are still chugging along. Another thing I thought was interesting, you know, not too long ago Senator Cornett had a bill, LB389, the Angel Investment Tax Credit, and we did move that along. And one of the things that if you were an angel investor, one of the things that they said that you could invest in is cellulosic ethanol. So you know, maybe in the future we won't be talking about corn like that's the all end to be all. We may be thinking about some other plants that we may be using for ethanol. And I do see a future in that hopefully that we can get to that route. That may balance out the utilization of corn for food or for ethanol, which to some people is significant. Again it appears to me that it's a mixed bag on which is better, depending on you probably as the driver of the vehicle or how you're driving the vehicle. But it did...if I drive up to something, I think it would be good for me to know as I drove, to which I would go, and just by looking at the pump I would say, yes, I'm going to get that kind of gas. Because, right now, I do. I drive up, I see the 10 catches my eye, and that's what I pump into my car. Thank you. [LB698 LB389]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Ken Haar, you're recognized. [LB698]

SENATOR HAAR: Mr. President and members of the body, I don't know yet either whether I'm going to go red or green on this one, and...because I have a lot of questions about it. And, you know, my own experiment as I said, showed that I get slightly less mileage, and when you figure in the cost of a gallon of gas, it's actually a little bit better on my budget if I buy just regular. But I would really again like to see some research. But going to the thing of labeling, I have a question for Senator Christensen, please. [LB698]

SENATOR GLOOR: Senator Christensen, would you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HAAR: Some time ago there was a move to, and I think this was in

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Transcriber's Office

Floor Debate
March 22, 2011

Congress, to label where beef comes from. Was that Congress or the Legislature here?
[LB698]

SENATOR CHRISTENSEN: Congress. [LB698]

SENATOR HAAR: Okay. Where did most ag people stand on that one, do you know?
[LB698]

SENATOR CHRISTENSEN: I'm sure they preferred the labeling, because it was in-nation. [LB698]

SENATOR HAAR: Okay. Well, that was my recollection too. Thank you very much. And so I'm struggling with this issue. We wanted beef to be labeled. And I would like beef to be labeled as to the place of origin, and I'd like to know where my lettuce comes from and my honey comes from, and all those kinds of things. Again, it's just part of me that I always read labels on the food I put in my body. And I'm feeling uncomfortable that we're going to take away labels. I don't think we have to trick people into buying ethanol by taking the labels away. I think that gives people more information that they can use in making their choices. You know, when I go to McDonald's, which we don't do all that often anymore, but they don't have, on every package, how many calories there are and what all the ingredients are. But you can go to McDonald's, they have a sheet that tells for each of their products how many calories. That's the thing I've been looking at lately. So I would think a minimum kind of thing would be that you could go to the gas station owner and get a sheet of paper or something that says, you know, what the percent alcohol and what these other percentages is. And then I'm wondering about the distributors. Again, Senator Christensen, if I could ask you a question? Will distributors tell the gas station owners, under current law and so on, how much...what the percent of alcohol? Or might the gas station owner, the final distributor, not even know what the percent of alcohol is? [LB698]

SENATOR CHRISTENSEN: No, because you're going to get...you're going to order your gasoline in, and you'll either order unleaded and get no alcohol or you'll order super unleaded and get 10 percent or order premium and get whichever formulation it is. [LB698]

SENATOR HAAR: And, for example, if I'm a filling station owner, that's the way I would order things. [LB698]

SENATOR CHRISTENSEN: Sure. You order in X-many gallons of diesel, X-many gallons of super unleaded, so many gallons of premium, and that's what they deliver you. They just like to have it in thousand-gallon increments to be a semi load...or, sorry, 8,000-gallon increment. Most semis...I forget what that...yeah, it must be 8...6,000 on a semi. [LB698]

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

Floor Debate
March 22, 2011

SENATOR HAAR: You're right. Okay. So would unleaded...let's say that a pump says unleaded. Would that still mean no alcohol, or that could mean 3 percent alcohol? [LB698]

SENATOR CHRISTENSEN: Well, right now, unleaded can have 1 percent or less. [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR HAAR: Okay. Thank you. So in the future, if this bill is passed, I could go to the unleaded pump and it would be 8 percent alcohol and I wouldn't know that. [LB698]

SENATOR CHRISTENSEN: If it's unleaded I do not believe so. It has to be less than 1 percent. If it's super unleaded, that's the 10 percent and under. [LB698]

SENATOR HAAR: Okay. I guess I would like to find that question, for sure. If I go to the pump and again I've got a really old farm...a little lawn tractor, and I would like to, just to be safe, continue, although I'm not so worried about the harmfulness of ethanol, that I would like to be able to put unleaded in that particular vehicle. So I guess what I need to know is would the word "unleaded" still mean no ethanol? [LB698]

SENATOR CHRISTENSEN: I believe, with the change in this, they could be up to 10 percent. [LB698]

SENATOR GLOOR: Time, Senators. [LB698]

SENATOR HAAR: Okay, thank you. [LB698]

SENATOR GLOOR: Thank you. (Visitors introduced.) Senators wishing to be recognized are Carlson, Wightman, Sullivan, Bloomfield, Dubas, Brasch, Lautenbaugh, Council, and Ken Haar. Senator Carlson. [LB698]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'll make just a few brief comments and then be off the mike. But again I think it needs to be emphasized that this bill makes it optional whether or not the blend of ethanol is labeled. Senator Christensen mentioned this, but under current law premium and regular unleaded can have up to 1 percent of ethanol blended, and it doesn't have to be labeled. So this apparently happens and I'm told that it acts something like the product that you put in the gas tank to take care of moisture condensation. But under current law, up to 1 percent can be blended in without labeling. Now if we pass AM650 and LB698, every company has the option or the right to continue to label or to decide not to label blends that are under 11 percent. Now in listening to some of the opposition that I

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

Floor Debate
March 22, 2011

think that I've received e-mail and phone calls and perhaps some of the rest of you have received that say they're in opposition to this, let's go back to agriculture is our number one industry. The ethanol people have asked for this bill. They did not ask for it because they thought by the passage of LB698 we're going to sell less ethanol. That's not why they asked for it. They asked for it because they believe the ethanol sales would increase. I say, what's wrong with that? And those in opposition that want to make sure that they're putting into their vehicles fuel that has no more than 1 percent ethanol would now have to ask. And I know that when I drive up to the pump, I look out the window and can see where the ethanol is and that's where I park. I don't like if I have to open the door, go in and ask which is or which is not ethanol. That's what the difference is. That's the only difference. And if our industry of ethanol believes that this is going to be good for them, then I think that we should give them a try with LB698 and AM650. So I continue to ask for your support on the amendment and the bill. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Wightman, you are recognized. [LB698]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I did want to rise and say I am in support of AM650 and the underlying bill LB698. I do think this is good for agriculture. I think there is going to be sufficient labeling that truth in advertising is probably not that big an issue. But at least there's going to be some labeling, whether it's super unleaded, whatever it may be, that I think will put on notice people that are filling their car with that blend. I would have to agree with one thing Senator Howard said, and she said that it does vary from area to area. I drove through Florida--oh, it's been seven or eight months ago, maybe more than that--but at any rate, I did notice that in Florida there was not...the differential was, a matter of fact, I think you maybe paid 2 or 3 cents extra for ethanol. And I think you'll probably find that that may be true in a lot of areas that are not particularly corn producing. However, I did notice when Senator Christensen read the states that had passed a bill similar to LB698, that there were many of those that weren't in corn country, so to speak, and I don't remember the entire list of states, but I know Louisiana. However, they may produce some from their sugar cane, I'm not sure. But they certainly weren't all corn producing states. And so they see fit, over a fair amount of the United States, to pass similar legislation to eliminate the labeling as an ethanol blend. But with that, I do urge your support for AM650 and LB698. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator. The Chair recognizes Senator Sullivan. [LB698]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I think it's important for us to remain focused on what we're trying to accomplish here. And we're dealing with labeling or nonlabeling of ethanol blended...ethanol fuels. But it's

Floor Debate
March 22, 2011

going to remain, as Senator Carlson indicated, an option. And I would suggest to you, particularly here in Nebraska, that there perhaps will not be very many changes made to the labeling at the pumps. Also, I'm an avid user of ethanol fuel. It's a little like...the approach I use is a little like my approach on shopping at home and shopping for groceries in Cedar Rapids. I will always look first to buy what I can in Cedar Rapids, knowing full well that if I went to a neighboring community or if I went to a big super store that I might be able to buy the product at a cheaper price. But that is not as important to me as buying at home and supporting my local grocery store. I feel the same way when I buy ethanol, that I know full well that I am supporting an industry that is very important to our state, and that trumps, perhaps, any dollars or pennies I might be able to save in the price per gallon. I respect the concern that many of us also have received from some of the classic car owners and their concern that they want to know what they're putting in their fuel tanks. We're not depriving them of the knowledge to know that. They can still ask. And granted, as Senator Carlson said, that it might take an extra step having to go into the store or to the retailer to find out exactly which pump it is. But that's still going to be available to them in addition to the fact that the retailer will still have that option. So I come full circle to what this is all about, and in many ways for the certain segment of the population that, quite frankly, doesn't care, that perhaps this will mean that they will reach for the pump that has ethanol. And will this mean increased sales for ethanol? I think it probably will. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Bloomfield, you are recognized. [LB698]

SENATOR BLOOMFIELD: Thank you, Mr. President, members of the body. I have more respect for Senator Carlson than most anybody else in this body. It bothers me to oppose him on this, but I feel I have to. We have 80 percent, we're told, participation in the state of Nebraska on ethanol. Ethanol in the state of Nebraska is cheaper than regular unleaded. So if you have the choice, as 20 percent of the people choose to do and continue to pay more to buy unleaded over ethanol, there's a reason they're doing it. And I fear what we're attempting to do here is just fool that 20 percent into buying ethanol when they clearly don't want to. If they wanted to buy ethanol, they would buy it if it were more expensive or if it were cheaper. There is 20 percent of the state does not wish to buy ethanol and we're going to try to sneak it into their tank, and I think that's fundamentally wrong. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Dubas, you are recognized. The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have you all voted? Senator Christensen, for what purpose do you rise? [LB698]

SENATOR CHRISTENSEN: Can we have a call of the house? [LB698]

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

Floor Debate
March 22, 2011

SENATOR GLOOR: There's been a request for a call of the house. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB698]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB698]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Christensen, how do you wish to proceed? [LB698]

SENATOR CHRISTENSEN: Roll call. [LB698]

SENATOR GLOOR: Mr. Clerk. Members, the question is, shall debate cease? Mr. Clerk. [LB698]

CLERK: (Roll call vote taken, Legislative Journal page 906.) 25 ayes and 21 nays to cease debate. [LB698]

SENATOR GLOOR: Debate does cease. Senator Carlson, you are recognized to close on the committee amendment. [LB698]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. AM650 simply amends the bill to state that the labeling would be necessary on blends of ethanol of 11 percent or more. The original bill said 1 percent. So the amendment simply would indicate blends of 11 percent or more of ethanol must be labeled. And, of course, as has been discussed frequently this morning, this amendment and this bill, the bill itself still leaves it up to the individual business owners and oil companies as to whether or not they continue to label on those blends under 11 percent or whether they decide not to. They have the option. I would ask for your support on AM650. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Carlson. The question is, shall the committee amendment to LB698 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB698]

CLERK: 32 ayes, 11 nays to adopt the committee amendment. [LB698]

SENATOR GLOOR: The amendment is adopted. Raise the call. Discussion now continues on the advancement of LB698. Senator Lautenbaugh, you are recognized. [LB698]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I think it's safe to say that I rise as one of the more knowledgeable senators regarding

Floor Debate
March 22, 2011

agriculture, with the possible exception of Senator Bloomfield, Brasch, Carlson, Christensen, Dubas, Fischer, Hansen, etcetera. That said, I do have to rise in opposition to this bill. And honestly, I was at a meeting last night. I even polled the people there. And I said: Do you want us to take the labels off the pump? And unanimously the response was: No, we want to know what we're buying. And for whatever purpose, if they want to promote ethanol usage, if they want to avoid it, for whatever reason the response was overwhelmingly and resoundingly clear. I've received the same response in my e-mails as well, with I think one exception, asking me to support this bill--and this source wasn't surprising. But otherwise people say: No, we want to know what we're buying regardless of our motives for wanting to know. And I feel like I have to abide by that. I mean I don't think it's necessary at this point that this become a debate about the merits of ethanol. I think we're just talking about truth in labeling at this point. And the people that I've talked to seem to want to know. So again, I don't think it's necessary at this point that this has to become a debate about the merits of ethanol. We're just talking about truth in labeling. And for that reason I have to vote no on this bill. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Council, you are recognized. [LB698]

SENATOR COUNCIL: Yes, thank you, Mr. President. I had been listening intently and had been included in the survey as to how I was going to vote on this, and early on I said I'm not sure. I appreciate and endorse the encouragement of the use of ethanol, as Nebraska produces such a significant percentage of ethanol, but then I listened to the uses. And I think probably what tipped the balance for me and why I rise in opposition to LB698 is a telephone conversation I had with my husband during the course of this debate. My husband is a small businessman who owns and operates a lawn and landscape business. He has to operate a lot of small engines, and he directed me (laugh) to oppose this legislation because the small engines that he operates, most of them don't have radiators or cooling systems--so I'm going to expose my ignorance about engines--but don't come equipped with radiators or cooling systems. And because ethanol burns at a faster rate and at a higher temperature, it exposes his equipment to considerable damage. In fact, the burning does result in actually burning the fuel lines leading to the carburetors on many of his larger riding mowers. After my first conversation with him, he called me back to alert me to the fact that last summer, unknowingly, one of his employees put a gasoline product with an ethanol blend into one of his power weed eaters, and it burned so fast that the weed eater actually caught on fire. So I think just in terms of...I mean automobile usage is one thing and I can understand and appreciate those who are supportive of this measure, but automobile owners and operators are not the only consumers of gasoline products. And I think that if gasoline products with ethanol blends could have that detrimental an impact on small engines, that it is incumbent upon us to continue the labeling associated with it. I can't tell you whether it's 9 percent or 8 percent or 11 percent that results in these events, so

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

Floor Debate
March 22, 2011

someone could say, well, Senator Council, because AM650 advanced, if it's 11 percent or more, it has to be labeled. But again, I'm not sure whether it's 8 percent, 9 percent, 10 percent, 13 percent that causes this damage to these small engines, and for that reason I will be voting in opposition to LB698. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Council. Senators wishing to be recognized are Ken Haar, Price, Krist, Karpisek, Brasch, and others. Senator Ken Haar, you're recognized. [LB698]

SENATOR HAAR: Mr. President and members of the body, I don't see this as a debate about ethanol because we know what ethanol has done for the state of Nebraska. But I'm...as I've listened and I've talked, I'm more and more concerned that I think this is a consumer issue. Senator Lautenbaugh said that he got the feedback: we want to know what we're buying. And that's a consumer issue. I think people have the right to know. We're almost saying in this debate that we ought to give people less information because then they could be tricked into buying a certain product. And I just...I'm sorry. The more we get into this, I feel my opposition rising. And then I also...at the pump, almost always, you see the price of regular more than plus. Last week it was as much as a 12 percent...because I watch the prices too. It was as much as a 12 percent...I'm sorry, 12-cent differential. So under this bill I could be going up to the regular pump and buying fuel that was 9 percent ethanol and paying 12 cents more because of our labeling requirements. And I just think that consumers have a right to know. And if the Legislature says we're going to give you less information, that's not a message at least that I want to send when I talk to voters about how I voted and why I vote in a certain way. Again, going back, more and more in our society people want to know where products are coming from, and they want to know what are in their products, and for a number of reasons. (1) You know, when you go to a store to buy food, I try to look at the nutritional value of that food. So one is the quality of the food. And the second thing, like labeling of beef, which I think would be a great idea, where it comes from, I would prefer to buy Nebraska beef simply because I think it's better. It hasn't gone through the whole shipping process. In Nebraska, we have standards we apply that may not, probably are not applied in Brazil or wherever the beef, the imported beef comes from. So I find it hard to argue that we ought to have labels for beef but yet we shouldn't have labels...we should have less information in terms of labeling when it comes to the gas we put in our car, because I think people should have that choice. You know, I'm not so concerned, as I said earlier, about whether ethanol blend is harmful to an engine or not. I haven't found that in my automobiles. But some people are concerned about that and I think they have a right to know without the extra trouble of going to the attendant, who may or may not know, by the way. If you go to a...you know, a Gas and Shop or whatever, Shell Oil or whatever, these folks aren't the owners that wait on you at the cash register. They are simply employees. So I think we're going to come up with a new problem that if this law passes we're going to go to the attendant, ask them what the percent alcohol is, and still not necessarily know that answer. So again, I look at this as a consumer issue, not

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

Floor Debate
March 22, 2011

an ethanol issue. I respect Senator...that are introducing this, Senator Carlson and Senator Christensen, a great deal, and I don't like to oppose... [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR HAAR: ...this bill. But I feel it's a consumer issue and so I will vote red on this. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Haar. Senator Price, you're recognized. [LB698]

SENATOR PRICE: Thank you, Mr. President and members of the body. I have conflicts with this bill. I'm trying to understand what we are trying to do. My first question is: Why did we start labeling in the first place? What was the genesis? What public good...my good friend Senator Avery often says: what public good was served by having a policy? And we can only assume, since it was so long ago and none of us were in the body, but that there was some interest for the public to determine why is this ethanol or this gas is blended? And I've heard the argument of 300 different additives to the fuel. But obviously the ethanol question was big enough to where we would pass a statute; that it was important enough to let our constituents and our citizens know that there was ethanol in there. Now we've seen with the advances in technology and engines that more engines--we had a handout--more engines are capable, and I want to underline that, capable of burning this fuel blend. What we didn't hear, and Senator Council was alluding to, is how efficient that is. Now we have two engineers in the body, both Senator Fulton and Senator Ken Haar, and I will probably engage them in a question here in a minute. The next question I would have is: what is the cost of this labeling? Does it cost an inordinate amount to put labeling on the pumps? Is there something they have to do; because I put it I have to go through further testing? Well, I don't know. Now what I did hear outside of the Chamber was we're trying to increase the market share, and there is a negative connotation when you pull up to a pump and you see it has an ethanol blend. Well, if...I have four choices. With most of the fuel stations I go to, I have four choices for fuel. I can get diesel labeled as diesel; I can get premium without ethanol; I can get a regular blend with ethanol; and sometimes I can get a higher octane blend with alcohol or the ethanol there. So I have four; they're all labeled. Now we're just going to have one labeled "fuel" and have an octane rating on it. Well, the question I have...and would Senator Ken Haar yield to a question? [LB698]

SENATOR GLOOR: Senator Ken Haar, will you yield to a question? [LB698]

SENATOR HAAR: Yes. [LB698]

SENATOR PRICE: Senator Haar, I appreciate you coming up. You're one of the engineers I saw first and could talk to and see on this question. Do you know, is there a

Floor Debate
March 22, 2011

different energy availability per unit of fuel that's pure gasoline versus one that's blended with ethanol? I mean in your engineering circles have you heard of people saying that there's less delivered energy per unit? [LB698]

SENATOR HAAR: Well, thank you for the labeling me as an engineering--but simply a physics major; it's a physics and chemistry major, so. But certainly, depending on what the additives are, you get a different amount of BTUs, or thermal units, British thermal units, out of different blends of gasoline. No question. [LB698]

SENATOR PRICE: Well, thank you. That actually worked better for me that you weren't an engineer but you're actually someone who knows about the subject matter more so. And ladies and gentlemen, I would...that's what I would offer to you. I've heard many times there's a break point even when you want to put the blended versus the unblended in your gas tank because your mileage will be impacted because of the available energy per unit. So that's a question. And the other question...and I daresay, I don't know if it's been brought up on the floor yet, but let me ask. Has anybody heard at the federal level they may be doing something that changes the subsidies of ethanol? That has a much broader impact to our state than anything else. [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR PRICE: Thank you, Mr. President. But the question I have is we had this for a reason. I haven't heard that it costs a lot to label one way or the other and the amount of energy and the efficiency of those fuels. And do we do a good public service by saying, you don't know what you're putting in your car and we move it to 11 percent, yet they get 10 percent blend, so really the only ones that really have to do it are the E-85s. So I just don't...I don't know that we're using this time for a good public service rather than we are an economic service to an industry. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Price. Senator Karpisek, you are recognized. [LB698]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I agree with Senator Haar, saying I don't think that this is a debate about ethanol at all, or I hope it isn't anyway. Don't want to go down that road, because we do know that ethanol has been a great, great thing for the state, and we want to keep it that way. But again I have to voice my opinion in just the truth in labeling issue on this. And I realize there's other things in gasoline. That isn't the issue. You can't get it without it. I think that this takes everyone who goes to buy gas and forces them to use ethanol. I don't think that's the way that we want to go here, folks. I think that we should have them buy ethanol if they want to, because roughly 80 percent of Nebraskans do. To me this feels like tricking someone into buying it. We don't have to put it on there. Senator Haar talked about labeling in food. We can't do that. There's a...you wouldn't want something in your

Floor Debate
March 22, 2011

food...well, we're just not going to say that maybe cornmeal is in there because it's good for the corn industry. I don't think that that is the right thing to do. Again whatever we can do to promote ethanol, let's promote it. Let's not try to put it in and make it sound like it's not in there. I do think that this is deceptive. I don't think it's the way that we should be going on ethanol. I think it's a great product that we should be proud of, and this to me seems like we're trying to sneak it in. We don't want to be that way. I don't want to be that way. Again I think we've seen that ethanol is being sold. We're selling a lot of ethanol. And we'll sell more once we get up to the E-15, there's a lot more E-85 out there. I do not have a flex-fuel vehicle, or if I do I don't know it, but then I wouldn't even know where to find a pump because there aren't as many as we need. But again, back to the blender pumps so we can choose. I would burn higher than 10 percent, probably even higher than 15 percent, and I think a lot of Nebraskans would. But why force the other 20 percent that don't want to use any ethanol to do so? Let's do it in a way that people who want to do it will increase our sales, not by those that don't want to do it. Colleagues, I feel that's the wrong way to go about things. I don't think it's the way to promote an industry, and I think it kind of gives the industry a black eye, which I do not want to do. Again we know what it's done for the economy of the state. I have a corn stove at home. I know what corn has done. It's at least doubled since I got that corn stove about five years ago or six years ago. I don't burn it anymore. It's great that the corn prices are up. It's not always so good for the feeders, and then we see it in our meat that comes through at higher prices. But there's a lot of other reasons for that too, so I don't like it when we just blame ethanol on higher meat prices. But it affects a lot of things. Again I'm glad that the price is up there. We see it in our economy. We see it if...I think there's an old adage: If you give a farmer a \$20 bill, he'll probably spend \$25. [LB698]

SENATOR GLOOR: One minute. [LB698]

SENATOR KARPISEK: Those people spend the money. They keep the economy rolling and that's a wonderful thing. But I again do not think that this is the way to go on this. Let's rather promote the industry. Get the people who want to burn it, to burn it. Let the people who don't want to burn it, not. Thank you, Mr. President. [LB698]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Brasch, you are recognized. [LB698]

SENATOR BRASCH: Thank you, Mr. President. Thank you, body. I am in support of LB698 in the sense that it's not to be deceptive at all. Like many of the rural senators that have stood up in support of this, I would like to see changing the labeling so we could think of ethanol as being, in Nebraska especially, being akin to the slogan, "Beef, it's what's for dinner. Ethanol, it's what's at our pumps." Label the pump that does not have ethanol in it because this industry is good for farmers. It's great for our state. It's good for our economy. It's essential. We just sold a car nearly ten years old, a Monte

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

Floor Debate
March 22, 2011

Carlo SS that ran almost ten years on ethanol. The mechanic purchased it. Not a thing wrong with the car except it didn't do so great on Lincoln's blizzards down here and on the streets. I'm in an all-wheel drive vehicle. Just filled it with ethanol yesterday. And very curious, I did...from the booth back here I called Smith's Farm Service in Pender, Nebraska. Talked to Donna Smith. I said: Donna, is there a problem with ethanol at all? She said: Not a problem at all, mechanically, anything. She said, in fact, the only problem they've had is when the state came to them two years concerned about a trace of potential ethanol in the hose, and they had to do some hose work. She said they would just as soon take the ethanol label off and it's great to label what is not ethanol. I do trust the agricultural industry here that we will do the right thing for our farmers, because it does the right thing for our main streets and for the rest of all of Nebraska and for our country. I don't believe it's a deception at all. What we're asking is for that 20 percent, that Senator Bloomfield talked to, is label it for them; label it for the small engine people. But for Nebraskans, it's ethanol. It's what at our pumps. And I do ask for your support in this bill. Thank you. [LB698]

SENATOR GLOOR: Thank you, Senator Brasch. Mr. Clerk. [LB698]

CLERK: Health and Human Services Committee reports LB600 to General File with amendments, that signed by Senator Campbell. The Government Committee reports LB277, LB292, LB550 to General File; LB449 and LR19CA to General File with amendments; and LB610, LR45CA, and LR22 indefinitely postponed, signed by Senator Avery. A confirmation report from the Government, Military and Veterans Affairs Committee. New resolutions: LR135, Senator Smith; LR136, Senator Campbell. Both will be laid over. And amendments: Senator Flood to LB84; Senator Dubas to LB297. (Legislative Journal pages 907-911.) [LB600 LB277 LB292 LB550 LB449 LR19CA LB610 LR45CA LR22 LR135 LR136 LB84 LB297]

Mr. President, Senator Fischer would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, there's been a motion to recess until 1:30 this afternoon. All in favor signify by saying aye. All opposed say nay. We are recessed.

RECESS

SENATOR PRICE PRESIDING

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

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

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Transcriber's Office

Floor Debate
March 22, 2011

SENATOR PRICE: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do. Enrollment and Review reports LB387, LB387A, LB541, LB465, LB385, LB468, and LB329 all to Select File, some of which have Enrollment and Review amendments attached. That's all that I have, Mr. President. (Legislative Journal pages 912-913.) [LB387 LB387A LB541 LB465 LB385 LB468 LB329]

SENATOR PRICE: Thank you, Mr. Clerk. We will proceed to General File, LB90. [LB90]

CLERK: LB90, by Senator Burke Harr. (Read title.) The bill was introduced on January 6, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM141, Legislative Journal page 588.) [LB90]

SENATOR PRICE: Thank you, Mr. Clerk. Senator Burke Harr, you are recognized to open on LB90. [LB90]

SENATOR HARR: Thank you, Mr. President. Ladies and gentlemen of the body, fellow senators, I come before you on LB90 which is an update of the Uniform Commercial Code. Before I begin, I want to thank those who helped me on this, specifically individuals, Bob Hallstrom, and also the Banking, Commerce and Insurance Committee for prioritizing this bill for me. The Uniform Commercial Code is a set of laws relating to commercial transactions. It is a set of statutes governing the conduct of business sales, warranties, negotiable instruments, loans secured by personal property and other commercial matters. It has been adopted in every state, except for Louisiana which has minor variations. There are general and inclusive group...this is a general and inclusive group of laws adopted at least partially by all the states to further uniformity and fair dealing in business transactions across state lines. The UCC is divided in to nine articles, each contain provisions that relate to a specific area of commercial law. LB90 would adopt revisions to the UCC Commercial Code, Article 9, Secured Transactions. LB90 would enact 2010 amendments to the Uniform Commercial Code as adopted by the National Conference of Commissioners on Uniform State Laws and as recommended to the states for enactment. Article 9 governs secured transactions in personal property. It was substantially revised most recently in 1998 and now is being revised...and now revised Article 9 is in effect in all states and the District of Columbia. Nebraska enacted the revised Article 9 in 1999, and it became operative in 2001. The 2010 amendments modify existing Article 9 to respond to filing issues and address other matters that have arisen in the practice after a decade of experience and due to changes in technology. Of most importance, the 2010 amendment provides greater guidance as to the name of the individual debtor to be provided on a financing statement. The 2010 amendments provide that if the debtor holds a driver's license issued by a state where the financing statement is filed, the debtor's name, as it appears on the driver's license, is the name required to be used on a financing

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

Floor Debate
March 22, 2011

statement; if the debtor does not have such a driver's license, either the debtor's actual name or the debtor's surname and first personal name may be used on the financing statement. This bill originally went in front of Banking, Commerce and Insurance and was approved unanimously by the members. There was one person who testified in opposition, which was the bar association. Since then, we have met with the bar association and, based on those conversations, they have now...they now are a proponent of this legislation. With that, I would open this up and yield my time. Thank you, Mr. President. [LB90]

SENATOR PRICE: Thank you, Senator Harr. As the Clerk stated, there are amendments from the Banking, Finance Committee. Senator Pahls, as the Chair of the committee, you are recognized to open on the amendments. [LB90]

SENATOR PAHLS: Good afternoon, Mr. Chairman and members of the body. The committee amendments are strictly technical. As the final double-check, the committee counsel, Bill Marienau, went over the bill with a fine-tooth comb and I'm telling you this is what he found. Actually, only three small tweaks need to be made. First, we need to remove an unnecessary use of the word "that;" second, we need to add lead-in language to a defined phrase; third, in one section we need to change "financial statement" to "financing statement" in three places. These are the tweaks. And that is simply the amendment. And as the introducer of the bill indicated, everybody is on board with this amendment and the bill. Thank you. [LB90]

SENATOR PRICE: Thank you, Senator Pahls. (Visitor introduced.) Returning to debate on the committee amendment, I see no lights on. Senator Pahls, you're clear to close. Senator Pahls waives closing. Members, you have heard the request here. All those in favor vote aye; all those opposed vote nay. Have all voted? Record, Mr. Clerk. [LB90]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB90]

SENATOR PRICE: The amendment is passed. [LB90]

CLERK: Mr. President, Senator Burke Harr would move to amend his bill with AM877. (Legislative Journal page 913.) [LB90]

SENATOR PRICE: Thank you, Mr. Clerk. Senator Harr, you're clear to open on your amendment. [LB90]

SENATOR HARR: Thank you very much. Last week, one of our drafters and one of our statute technicians proofed LB90 against the official UCC text. They found a couple discrepancies and a few E&R type changes that ought to be made. The amendments do things like change the word "documents" to "a document;" they change the words "paragraph" and "subparagraph" to "subdivision;" they change the word "the" to "a;"

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

Floor Debate
March 22, 2011

they even strike a comma in one place and add a comma in another place. I urge you to adopt the amendment brought to us by the Bill Drafters. Thank you. [LB90]

SENATOR PRICE: Thank you, Senator Harr. Seeing no members wishing to speak, Senator Harr, you're recognized to close. Senator Harr waives. The question before the body is, shall the amendment, AM877, be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB90]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Burke Harr's amendment. [LB90]

SENATOR PRICE: Thank you, Mr. Clerk. [LB90]

CLERK: I have nothing further on the bill, Mr. President. [LB90]

SENATOR PRICE: Thank you, Mr. Clerk. We're now again open for debate. Seeing no members wishing to speak, Senator Harr, you are recognized to close. Senator Harr waives closing. The question before the body is, shall LB90 be adopted? All those in favor vote aye; all those opposed vote nay? Have all voted who care to? Record, Mr. Clerk. [LB90]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB90. [LB90]

SENATOR PRICE: LB90 is adopted. Mr. Clerk. [LB90]

CLERK: Mr. President, LB509 offered by the Retirement Systems Committee. (Read title.) The bill was introduced on January 18, Mr. President, at that time referred to Retirement Systems, advanced to General File. There are committee amendments pending. (AM549, Legislative Journal page 743.) [LB509]

SENATOR PRICE: Thank you, Mr. Clerk. Senator Nordquist, you are recognized to open on LB509. [LB509]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB509 was introduced on behalf of the Retirement Systems Committee and proposes technical changes to the county, state, judges, State Patrol, school employees, and Class V school employees retirement plan as well as duties of the...changes to duties of the Public Employees Retirement Board and the Nebraska Investment Council. Most of these changes were brought to us on behalf of those agencies. And I'll go through the provisions of the main line bill quickly and then will address the committee amendment which adds several other provisions. First, it creates the County Employees Retirement Fund for the deposit of county late filing penalties. Currently, there is no such fund or authorization for such fund. It allows permanent part-time county and state employees

Floor Debate
March 22, 2011

to participate in the respective plans at age 18; currently, it's age 20. The agencies believe that's appropriate policy to begin...allow permanent part-time employees to begin participating in the plan at age 18. It adds a new section to the Class V School Employees Act requiring the Class V boards to provide comprehensive preretirement planning programs to members of the Class V School Employees Retirement System, which is...also the only one we have is the Omaha School Employees Retirement System or OSERS, they have been doing this planning. Currently, there is a requirement that our state Public Employees Retirement Board was supposed to be doing it. They've never done it. OSERS has always assumed that duty of doing preretirement planning programs for its members. So this is just to make that correction. This deletes the requirement for the Class V retirement systems to file an annual plan summary with the Public Employees Retirement Board and the Retirement Systems Committee. But it does require them to file actuarial reports, the Class V districts to file...retirement systems to file actuarial reports with the board and with the committee. Couple other changes, it changes the date from March 15 to March 31 for the Nebraska Investment Council and the Public Employees Retirement Board to present its annual reports to our committee. This just gives them a little bit more time at the beginning of the year to pull together the important information to present to the committee in their annual report. It deletes the requirement for the Public Employees Retirement Board to notify the committee if political subdivisions fail to file their annual pension reports. Currently, they have no way of knowing who would fail to file; they don't have a comprehensive list of the municipal pensions, the political subdivision pensions. And finally, it modifies COLA language. The COLA provisions are recognized under a new section of the statute. There are no substantive changes here, it's simply a reorganization of the language. These are all very technical in nature and brought to us on behalf of the agencies. And I'd appreciate your support for the underlying bill. Thank you. [LB509]

SENATOR PRICE: Thank you, Senator Nordquist. As the Clerk stated, there are amendments from the Nebraska Retirement Systems Committee. Senator Nordquist, as the Chairman of the committee, you are recognized to open on the amendments. [LB509]

SENATOR NORDQUIST: Thank you again, Mr. President. The committee amendment makes two changes to LB509 and also incorporates three bills that the committee heard that are all relevant to the underlying bill. First is related to rollover distribution, it clarifies transfer language in the State Employees Retirement Act regarding an employee's ability to directly rollover distribution of benefits into the employee's deferred compensation plan. This language change was needed in order to comply with IRS regulations. Secondly, we had a long discussion on distribution of benefits during a grievance period. Originally as introduced, the underlying bill would have disallowed the distribution of retirement benefits to a terminated county or state employee if a grievance was filed. The reason the PERB board brought this to us was because too

Floor Debate
March 22, 2011

often, it's not a large number of times a year, but a few times a year people would withdraw their retirement benefits and have a difficult time repaying them should they be reinstated. Currently, retirement benefits of employees who have filed grievances can range anywhere from \$1,000 to \$300,000. So, obviously, if you withdrew your entire lump sum of your retirement benefit and it was at the \$300,000 level and you have to repay that within a few years, that's very difficult. So the committee decided to allow employees to pull down only a limit of up to \$25,000 from their portion, from the employees' portion of the account. We felt comfortable that that was an appropriate amount to give the employees the ability to make ends meet during a grievance should they need that money, which grievances can last anywhere from 2 months to 21 months, with the average being about 8 months. So that would be a reasonable amount that could get them through those times, but also a reasonable amount to repay. The committee amendment also incorporates three bills that we heard before the committee. The first, LB532 introduced by Senator Karpisek, was heard on February 1. LB532 provides for the transfer of the Department of Labor independent retirement plan members to the State Employees Retirement System if the independent retirement plan is terminated. For vesting purposes, members would be credited for their years of service in the independent retirement plan. The second bill, LB246, also introduced by Senator Karpisek, was heard on February 15 and had no opposition. It allows benefits to continue to be paid to surviving spouses of a deceased State Patrol member, even if that spouse remarries. Under the current plan, benefits cease when a surviving spouse remarries. This provision, according to the actuary, will have no actuarial impact on the plan. To date, there have been no surviving spouses that have remarried. The final bill, LB486 introduced by Senator Louden, was heard before the committee on February 8. The committee appreciates Senator Louden's commitment to this issue, he spent a great deal of time over the interim working on it, bringing interested parties together and coming to a solution that the committee worked on and got behind. Under LB486, as originally introduced, the 7 percent annual salary cap in the School Employees Retirement Plan is increased to 9 percent, beginning July 1, 2012. And current salary cap exemptions are eliminated for purposes of calculating benefits on annual compensation during each of the last five years of employment prior to retirement. After that first year, the amount will be capped at 8 percent a year beginning July 1, 2013, and into the future. This provision will save the School Employees Retirement Plan a significant amount of money into the future by getting rid of the exemptions to the salary cap. Those are the provisions of the committee amendment. The bill and committee amendment came out of committee with no opposing votes. And I would appreciate your support for this bill. Thank you. [LB509 LB532 LB246 LB486]

SENATOR PRICE: Thank you, Senator Nordquist. Members wishing to speak on the bill, Senator Louden, you are recognized. [LB509]

SENATOR LOUDEN: Thank you, Mr. President, members of the body. And thank you, Senator Nordquist, for your summary of this rather extensive bill. The part I would

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

Floor Debate
March 22, 2011

mostly talk about is the LB486 part that I introduced here. And this is work that we worked with the teachers unions and the superintendents unions through the fall and summer and more or less came to an agreement on how we could further our work on this to make the retirement system a little bit more perhaps able to withstand some of the lean times. It will be a significant savings in money and it streamlines the retirement plan. As Senator Nordquist had pointed out, it does away with the exemptions that were in there. Some of the people were getting as much as a 13 or 14 percent increase in salary from one year to the next and that was used to fund...those numbers were used, I guess I should say, to declare or decide what their retirement fund would be. And so we have brought this forward, put it all in to one committee bill. And it's something that everybody has agreed to. And it is something that will be a significant increase to our retirement system. And it was anywhere from \$150,000 to well up into over \$1 million increase, depending on who the exemptions were and how soon any particular class of people would take them. So with that, I would certainly support LB509 and certainly support all the amendments that go with it. Thank you, Mr. President. [LB509 LB486]

SENATOR PRICE: Thank you, Senator Louden. Senator Coash, you are next in the queue and are recognized. [LB509]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. Would Senator Nordquist yield to a few questions, please? [LB509]

SENATOR PRICE: Senator Nordquist, would you yield? [LB509]

SENATOR NORDQUIST: Yes, I'd be happy to. [LB509]

SENATOR COASH: Thank you, Senator Nordquist. I shared with you off the mike that I have a handful of constituents who work at the Department of Labor. And so I want to make sure that I get some clarification for my benefit and for theirs on the record with regard to AM549, which includes provisions of Senator Karpisek's LB532, having to do with the Department of Labor and their retirement plan. Earlier in your testimony or in your opening you said that there would be credits for years of the Department of Labor workers and the IRP. Can you expand on what you mean by the credits, how that will work. [LB509 LB532]

SENATOR NORDQUIST: Sure. In the state employees plan there's an employee portion and an employer portion. And to be...once you're vested then you qualify for both portions. So the purpose is really to make sure that once they get enrolled, should their current plan be terminated and they're enrolled into the state plan, they would be considered vested because of their service that they've had in the other plan. [LB509]

SENATOR COASH: Okay. So when you said credit, you just meant their vesting, their vesting years? [LB509]

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

Floor Debate
March 22, 2011

SENATOR NORDQUIST: Yeah, yes. [LB509]

SENATOR COASH: Okay. Does this...does the amendment in any way affect whether or not the Department of Labor will discontinue their IRP for those 49 current employees? [LB509]

SENATOR NORDQUIST: No, it won't. That decision will be made elsewhere. This would solely be if the plan is terminated. This will allow the department to direct those employees into the state plan going forward; if we did not take this action, those employees would have no retirement system that they would be participating in. They would have whatever happened previously, but if that plan was terminated they'd have those benefits but they wouldn't have anything going forward. [LB509]

SENATOR COASH: Okay, thank you. With regard to that termination, does this...is there any mandate here that the DOL discontinue? [LB509]

SENATOR NORDQUIST: No, that's...they are...that decision is going to be pending before the court whether or not they have the authority to or not. That decision will be made there and within the department, should they have the authority. But this again is just what happens after the plan is terminated. [LB509]

SENATOR COASH: Okay, thank you. And then one final question. For those employees who may be transferred over, will there be any benefit loss to those employees when they switch from the IRP over to the State Employee Retirement Plan? [LB509]

SENATOR NORDQUIST: No, there won't be. The benefits that they've accrued under the IRP will be there, this will be from this date going forward they'll be in the state plan. And if this wasn't available to them, they wouldn't receive then the state match on employee contributions. So this really is, I think...will be a benefit to those employees, should that plan be terminated. [LB509]

SENATOR COASH: Okay, thank you, Senator Nordquist. And thank you, Mr. President. I will yield the remainder of my time to Senator Nordquist, if he would like it. [LB509]

SENATOR PRICE: Thank you, Senator Coash. Senator Nordquist, you are yielded 1 minute and 45 seconds. Senator Nordquist waives that time. Senator Adams, you are recognized. [LB509]

SENATOR ADAMS: Thank you, Mr. President. Would Senator Nordquist yield, please? [LB509]

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

Floor Debate
March 22, 2011

SENATOR PRICE: Senator Nordquist, would you yield to a question from Senator Adams? [LB509]

SENATOR NORDQUIST: Yes. [LB509]

SENATOR ADAMS: Thank you, Senator. And I'll apologize right at the outset, if Senator Coash has already asked this question of you about LB532 that is now part of the committee amendment. But just as a matter of clarification, I, too, have constituents that have concern about this. And just very simply, the language here, as I read it, does not intend, and I'd like your affirmation if possible, does not intend to end the retirement system that they are part of. Instead, if I understand it correctly, what we are doing is simply providing them a place depending on how other actions transpire. Is that correct? [LB509 LB532]

SENATOR NORDQUIST: That is absolutely correct. [LB509]

SENATOR ADAMS: And we're not trying, in this amendment, to expedite any action outside of this body on this particular issue, are we? [LB509]

SENATOR NORDQUIST: No, we're just trying to put essentially a safety net in place when the decision is made, one way or the other, if the plan is terminated that there is an avenue for them to continue to receive retirement benefits into a new plan. [LB509]

SENATOR ADAMS: All right, thank you, Senator Nordquist. Thank you, Mr. President. [LB509]

SENATOR PRICE: Thank you, Senator Adams and Nordquist. Senator Janssen, you are next in the queue and recognized. [LB509]

SENATOR JANSSEN: Thank you, Mr. President, members. Would Senator Nordquist yield to a question? [LB509]

SENATOR PRICE: Senator Nordquist, would you yield? [LB509]

SENATOR NORDQUIST: Yes. [LB509]

SENATOR JANSSEN: Thank you, Senator Nordquist. And I probably could have just tapped you on the shoulder and asked you this, but you seem pretty busy. And I was just going through your committee statement on LB509 and I have a couple of clarifications. It says it modifies language in the judges, State Patrol, school employees retirement acts to clarify that members receive the highest cost-of-living method identified in current statutes. The COLA provisions are recognized under the new sections of statute within the act. Is there a reason for that? I mean, is there places

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

Floor Debate
March 22, 2011

where people are not getting the highest amount of the COLA allowance? Is there some discretion within that? [LB509]

SENATOR NORDQUIST: Apparently, the Auditor raised a question related to these provisions. And the...NPERS brought this language to us, it shouldn't have...it will have no financial impact on those benefits. But this was in response to questions raised by the Auditor. [LB509]

SENATOR JANSSEN: Okay. And that's fine. I mean, if there's more to that, you could certainly get back to me later on that. I just...it's something that I hadn't seen. And I wasn't aware if we were always...if we always had to pay the highest cost-of-living adjustment or not. And the other case, on the same committee statement it says, and I'm not all familiar with these terms, but clarifies that Class V school employees who are not lawfully within the United States are not authorized to become members of Class V school employees retirement systems and receive public pension benefits. And it continues, and it makes Revisor technical corrections and deletes obsolete language. So it's somewhat technical in that. [LB509]

SENATOR NORDQUIST: Um-hum. [LB509]

SENATOR JANSSEN: I didn't know if there was an issue that was happening there. [LB509]

SENATOR NORDQUIST: That language was in LB403 a few years ago. But for some reason, with all the numerous plans, it was not included in the Class V plan, which is the Omaha School Employees Retirement Plan. So this is just to make sure that that language is in all the plans. [LB509]

SENATOR JANSSEN: Thank you very much, Senator Nordquist. Thank you, Mr. President. [LB509]

SENATOR PRICE: Thank you, Senator Janssen and Senator Nordquist. Seeing no other senators wishing to speak on this, Senator Nordquist, you are recognized to close on the committee amendment. Senator Nordquist waives. The question is, shall the committee amendment to LB509 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted? Record, Mr. Clerk. [LB509]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB509]

SENATOR PRICE: The amendment is adopted. Discussion on the advancement of LB309 (sic) to E&R Initial will continue. Seeing no other senators wishing to speak, Senator Nordquist, you are recognized to close. Senator Nordquist waives closing. The

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

Floor Debate
March 22, 2011

question is for the advancement of LB309 (sic) to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to vote? And correction, that was LB509. Record, Mr. Clerk. [LB509]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB509. [LB509]

SENATOR PRICE: The bill advances. Returning back to the schedule as laid out before, we will return to LB698. Senators wishing to speak are Senators Pahls, Christensen, Loudon, and Krist. Senator Pahls, you are recognized. [LB509 LB698]

SENATOR PAHLS: Good afternoon and thank you. As I've been pursuing some of the information, I did run across some points I'd like to bring on the executive budget, in brief, that was given to us in the early part of January, because earlier this morning Senator Karpisek made some comment about we need to be advertising more about the blends, we ought to be marketing that. And I did notice that the Nebraska Ethanol Board, they did request, in the next two years, over \$27,000 in '10-11, '12 and also '10, '12-13. However, that was rejected but they can use, my understanding, some of their other funds to do that. So that may be encouraging if they are going to be taking a look at promoting this. I'm still trying to figure out why we want to remove the label. You know, I'm sitting here and thinking, okay, what's the purpose? Is it because we are starting to lose the incentives? And again, I don't need to tell you, I drive up, I use ethanol, so it's not trying to denigrate ethanol. Trying to figure out why we truly need to change this. Is it because the incentives will be slowly going away and this is one way to pump up the utilization of this particular product? I don't know. I'm still with the...like I say, the truth in lending, you know. Being the Chair of Banking, Commerce and Insurance, that is one thing that we are very concerned about--truth in lending. Well, this is to me truth in marketing. Why do we need to do that? As I said, when I drive up I look for that and I go directly to that pump. I'm still in a little bit of a daze why we are doing that. I know there are some of you on the floor who do go to and you are participants in farmers markets. Why do you go there? Because you know that food is locally grown, and in some cases it's under the title of organic. You trust it, you're looking for that label. That's why you are willing to spend a little bit additional money to not only buy something locally but you probably have a security about that. So I still say that when I go to the pump I want to know what I'm putting in there, not have to go inside and double check with that because we do know, as has been pointed out, a number of people buy the lowest...the price is the major factor. So I do think we ought to take a look at that; if we're willing to go to special markets to look for something because there's a trust there, it's labeled, you know it's locally grown and if it's organic it has to go through certain procedures, you know. And here's another thing, so many of us on the floor we talk about let's let the market work. Well, the market should work. Let the market forces say whether the ethanol will go down and fewer people will utilize it. Let the market make the decision. Many of us espouse that, I think we ought to think about that. Also, if you have the time, I would like to, if you would take a look at the executive

Floor Debate
March 22, 2011

budget on page 20, the very bottom there is an interesting statement. I'm trying to find out the answer to this. It deals with how the money is moved back and forth. And what caught my attention, because we're going to be talking about this in the near future, is how some of the money from the Highway Trust Fund, now I don't know if they're moving that money around to fill the coffers in one fund, I don't know that. I'm trying to find that right now and I haven't gotten that answer. But on page 20, they're talking about, for the funds that they use for the environmental, that apparently there's some access to the Highway Trust Fund. Now if we had that additional money just sitting there... [LB698]

SENATOR PRICE: One minute. [LB698]

SENATOR PAHLS: ...thank you, I'm just trying to figure out all the behind the scenes things that are going on. I'm not saying it's not legitimate, it's that I don't understand how they are going about utilizing these different funds. Like I say, I'm trying to find that. But that is on page 20 of the executive budget that was handed to us on, I think, on January 13. As we dig farther and farther into some of these issues we find out it's sort of like that spiderweb, this leads to this, that leads to that. And I'm trying to make sure that I don't get caught in that spiderweb. I still have a feeling, trust me to be able to look at the pump and make that decision. I want to use the pump that has the ethanol, that says the 10 percent or whatever, you know, not only me but the rest of the people. Thank you. [LB698]

SENATOR PRICE: Thank you, Senator Pahls. Senator Christensen, you are next and recognized. [LB698]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. Again, I'll just reiterate the idea of this has been because the EPA has said 10 percent or less alcohol is essentially gasoline. And that was the idea behind this and the actual incentive that it has given in other states for increasing the usage. And this is a homegrown product. We are the second largest producers of alcohol in the nation for fuels and this is just a way that has increased sales in other states. But I wanted to go back to a comment Senator Council brought earlier. And I gave her a copy of this and I can get it for anybody that would like it. But it talks about ethanol chemically enhanced air-fuel mixtures, as an example, in engines set an air-fuel ratio of 14.7 to 1 on all hydrocarbon fuels. The introduction of 3.5 percent oxygen in a fuel would enlean the air-fuel ratio to 15 to 2:1. And to help you understand that, come on down a little further in this article, it talks about the maximum combustion temperature and resulting engine temperatures occur at the air-fuel ratio of 14.7 to 1. Going richer or lean from this point would cause...result in lower temperatures. Therefore, equipment with richer initial air-fuel ratio settings of 13 or 14 to 1 may experience increased operating temperatures. But remember, the ethanol being added resulted in the ratio going to 15.2 to 1. Alcohol burns cooler so it actually is safer for engines. And I know this for a fact because I've been around the irrigation engines

Floor Debate
March 22, 2011

that burned on 100 percent ethanol. And you can get them engines and they run considerably cooler when burning them fuels. It's got more oxygen in it and it reduces the combustion temperature and so it should be safer for engines. But if you want that heat back up there, you tweak your carburetor by turning the adjustment screw to it on the air-fuel ratio and you can bring that back up to make it heat to where the engine originally was made to. And I can go on in this article, talks about, if I can catch it here quickly, but this increase is not...okay. Right after 13 to 14 to 1, may experience increased operating temperatures when switched to oxygenated fuel. This increase is not significant and most manufacturers do not require any modifications, but some do. Again, it comes down to the particular type of carburetor and how it is used. It can easily be tweaked if you want to increase that temperature back up there. But it should never cause the fuel to burn higher, at a higher temperature or make that engine run at a warmer temperature because alcohol will burn quicker at a lower temperature than oil crude and things this direction. So again, I hope we continue to have good discussion on this bill. It has been something that has increased sales in other states. We are the second leader producer. It's a green fuel, if you are an individual that likes green and saving your environment you can't vote against this bill... [LB698]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR CHRISTENSEN: ...because this a green bill, it's increasing the use of environmentally safe fuel. It is cheaper. You can take alcohol and literally dump it where you had the crude oil spills and it caused environmental damage, you can dump the alcohol in there, would not kill the fish, would not cause problems. It's environmentally safe. So if you're green, again, you need to support this bill. Thank you. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Senator Louden, you are recognized, followed by Senator Krist. [LB698]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've always supported ethanol because it's done great wonders for the state of Nebraska, but there are some questions that I do have about what we're doing with this bill and where we're going. Senator Christensen just gave us quite a lot of technical data on engines. And part of that, from an old engine man such as myself that's run tractors on tractor fuel and everything else, what you're talking about is the ignition level of alcohol, which is lower. Anybody knows that alcohol boils at 160 degrees and so, therefore, it burns at a lower temperature. That's what he was more or less trying to tell us. Not that we're going to get anymore power out of the alcohol, because the hotter the fuel burns the more power you get out of it. That's the reason you have diesel engines that have somewhere around a 15:1 compression ratio so you get a higher temperature of burn. But nonetheless, my questions are we're not here to discuss it today about whether or

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

Floor Debate
March 22, 2011

not it's a green energy or not, because that's another issue about whether it's energy efficient to have ethanol. I've seen that debated all over the United States about it costs more in energy to produce a gallon of ethanol than actually what we receive out of it. But the question here today is about this, are we going to label it? So what I was wondering, would Senator Christensen yield for some questions? [LB698]

SENATOR LANGEMEIER: Senator Christensen, would you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR LOUDEN: Now as we're talking about labeling is what we're talking about here. And the deal is like now when you pull up to the pump it says 10 percent ethanol. And if this bill passes then, unless they have 11 percent in there, there won't be any labeling on it, that's correct? [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR LOUDEN: Correct. Now at the present time, and I don't know if anybody knows where that's going with the federal government. But right now there's, what, 45-cents tax credit goes to ethanol producers from the federal government. Is that correct? [LB698]

SENATOR CHRISTENSEN: I don't know if that's the exact number, but there is an incentive, yes. [LB698]

SENATOR LOUDEN: Okay. I think it's 45 cents. So that's the reason when you have 10 percent ethanol. Your ethanol that you buy should be 4.5 cents cheaper than your regular gasoline. And a lot of times that's about where it runs. So now if we have something like this and you're talking about the 30 percent ethanol, shouldn't that be labeled because then there should be about a 13.5 cent discount for buying that with 30 percent ethanol over your regular gasoline. Now should we have some kind of labeling on this so that the people know what they're getting and should be realized that some gas station someplace isn't holding them up for the extra 13 cents? [LB698]

SENATOR CHRISTENSEN: Correct. Anything over 11 percent and higher would be labeled. So if somebody sold 15, the new product that's being pushed, it would be labeled. The 85 would be labeled, the 24 that's in Kearney is labeled, 30 percent in other places that it's sold on blender pumps is labeled. [LB698]

SENATOR LOUDEN: Okay. And the reason we have that in the bill now is because of the committee amendment, that was put in that bill to put it at 11 cents. Is that correct? [LB698]

Floor Debate
March 22, 2011

SENATOR CHRISTENSEN: That is correct. [LB698]

SENATOR LOUDEN: Yeah. Okay, thank you, Senator Christensen. As I look at this, why, this is what we're talking about is labeling now. Does it make any difference? Should it be at 11 percent? Should it have been at 10 or 7, whatever? But somewhere in there we have to have some kind of labeling on that fuel so that we know what we're getting. So that someone isn't probably perhaps trying to sell us something that isn't unleaded gas and yet it could be mixed with a certain amount of alcohol. Any of you that have ever been close to oil fields years ago they used to, some of the dealers would get in a load of what they called casing head gas off of those oil wells and mix it in with their gasoline. Then you wondered why you were burning the valves out of your tractor. So there's all kinds of things... [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR LOUDEN: ...that can be done like that. So I think we have to be very careful, but I'm glad we do at least have the committee amendment on here. Thank you, Mr. President. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Krist, you're recognized. [LB698]

SENATOR KRIST: Thank you, Mr. President, members of the body. Once again, I know that between now and Select, should it get there, I will address this question again and potentially add the rest of my concerns with the progression of C1 through C10. And in between that time I would invite you to do the same. Methanol is C1; ethanol, C2. Experimentation is ongoing to use C3 through C10, and we're capable of adding in fuels at the octanol range, which is C8. I wonder if we are going to relieve the responsibility of the ethanol industry from giving us an exact ingredient and cover for the amount of alcohol that's there if we're going to do that for the rest of these blends, because if I blended a fuel with a higher mixed alcohol grade, the BTU does change. And now we're talking about potentially the internal combustion parts of the engine that may be affected. I worry that when we remove the restriction and we say ethanol is okay and if you look at the amendment and now the wording of this, we are specifically targeting in on methanol or ethanol or methanol-ethanol blends. Very quickly, we're going to see the rest of the "als," okay? And if we do go into the C6, C7, and C8 range it's going to create some additional concerns. I won't stand up here and say that the BTUs are 77,000 and this will happen or that will happen. I'd invite you to go on and look at the information yourself. The University of Nebraska, again, has a wonderful Web site. I do know Senator Council's significant other's concern, her husband's concerns. And I have those same concerns because I have experienced those concerns, experienced them firsthand with small engines. So I hear what people are saying here on this mike today and I understand that we are a bit concerned that by relieving those responsibilities we

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

Floor Debate
March 22, 2011

are allowing that midrange mixer to sell more ethanol, which means there's more money in the bank and we're doing a better job of selling ethanol in the state of Nebraska. But I wonder if there isn't, and I hate to use this term again, but if there isn't an unintended consequence for not watching the ingredients that are blended. With that, I will yield back the rest of my time. Thank you, Mr. President. [LB698]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Krist. The Chair now recognizes Senator Ken Haar. [LB698]

SENATOR HAAR: Madam Chair and members of the body, I have a couple questions for Senator Christensen, if he'd be willing to answer. [LB698]

SENATOR SULLIVAN: Senator Christensen, will you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HAAR: Okay. Just so I've got this clear in my mind, what people are used to now is when it says regular or unleaded that means it's got less than 1 percent ethanol, is that correct? [LB698]

SENATOR CHRISTENSEN: Correct, if it says super unleaded it means that's where you start the 10 percent. [LB698]

SENATOR HAAR: Okay. So people are used to this terminology. So when I left the Chamber this morning I was thinking, well, I will just go to a station that actually tells me what's in that, and it will still have regular, super or plus and so on. But according to this bill, even if somebody says regular, that could be 9 percent or 10 percent alcohol, right, under this new bill? [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR HAAR: And then plus would be 11, where they'd have to show it. And since people are used to it, you could still charge that 10 percent differential and, unless people were well-informed on the intricacies of gasoline, they wouldn't know the difference. Is that correct? [LB698]

SENATOR CHRISTENSEN: Until you go into the octane ratings and observe them, if you look, octane ratings are labeled on every pump. In Colorado you'll find 85, Nebraska generally starts at 87, 87 not having alcohol, 89 having alcohol, then up to 91 again not having. [LB698]

Floor Debate
March 22, 2011

SENATOR HAAR: Okay, will they still have to put the octane ratings on the pumps? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HAAR: Okay. And that's in the current law? [LB698]

SENATOR CHRISTENSEN: I think that's a federal deal. I've never seen a pump without one, so I assume it's law because every pump always has the octane rating. [LB698]

SENATOR HAAR: Okay, but whether people do it and whether it's required, could you find that out for me whether... [LB698]

SENATOR CHRISTENSEN: I will find that out for you. [LB698]

SENATOR HAAR: Okay, because then at least I could drive up to a pump and by being familiar with octane ratings I would have some idea of what's in my gasoline. [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR HAAR: Okay. Well, thank you very much for that information. I still think it's...it just feels uncomfortable. We're taking information away from consumers so that they'll buy more ethanol. I don't think that's necessary. I think this is really an important issue because we're talking about information for consumers and this bill would decrease that information. A week or two ago, we just passed a bill, at least on the first reading, that will require the labeling on honey in such a way that consumers know what's in honey when it's sold on the supermarket shelves. And we thought that was important so consumers could make informed decisions. Now we're taking away information to sell more ethanol and I just can't buy that. Thank you very much. [LB698]

SENATOR SULLIVAN: Thank you, Senator Haar. Those wishing to speak: Senator Lautenbaugh and Council. The Chair recognizes Senator Lautenbaugh. Seeing that he is not here, the Chair recognizes Senator Council. [LB698]

SENATOR COUNCIL: Yes, thank you, Madam President. I just wish to acknowledge and confirm the fact that Senator Christensen did provide me with some data, information regarding enleanment, whatever that term means in engine savvy. I'm sure Senator Loudon knows what enleanment means, but I really don't. But the point I wanted to make is that while Senator Christensen accurately notes that this particular article does indicate that modifications could be made to address the concerns that my spouse conveyed to me this morning, the fact is that this article acknowledges the fact that those concerns do exist. And in particular reading directly from it, the two primary concerns are octane quality and excessive heat. Increasing volumes of ethanol in

Floor Debate
March 22, 2011

gasoline should not present problems in the area of octane. Ethanol is routinely used to improve octane quality. The more predominant concern is the potential for higher operating temperatures. And that's when we get into this technical stuff about the maximum combustion temperature and resulting engine temperature occurs at an air-fuel ratio of 14.7 to 1. Going rich or lean from this point will result in lower temperatures. So that means you have to make some modification in order to avoid these excessive temperatures. Therefore, equipment with richer initial air to fuel ratio settings, such as 13 or 14 to 1, may experience increased operating temperatures when switched to oxygenated fuels. And that's the point, they may result in increased temperatures. And Senator Christensen was correct in noting that the article says, this increase is not significant and most manufacturers do not require any modifications, but some do. So the point being is that in order to avoid the risk of increased engine temperatures, if you don't have some small equipment that is already at one of these higher air to fuel ratio, there is a risk of higher operating temperatures. And I also found it kind of interesting to note that the piece of equipment that there is a picture of on this document is a large commercial weed-eater, the exact piece of equipment that my husband advised me burst into flames with him last summer. (Laugh) Thank you. [LB698]

SENATOR SULLIVAN: Thank you, Senator Council. Mr. Clerk. [LB698]

CLERK: Madam President, Senator Langemeier would move to amend the bill with AM907. (Legislative Journal page 914.) [LB698]

SENATOR SULLIVAN: Senator Langemeier, you are recognized to open on your amendment. [LB698]

SENATOR LANGEMEIER: Madam President, members of the body, AM907 that I'm offering to LB698 is trying to take some alleviation out of this argument. This is my personal opinion. Back when we started labeling ethanol the purpose was to give notice that it's in the fuel. I think everybody out there knows a lot of our fuel has ethanol in it. We want to promote that. I'm a very strong supporter of the ethanol industry. And so what AM907 does, and it's very clear, it requires, instead of marking the pumps that have ethanol, we would mark the pumps that don't have ethanol. So just Joe Random Public that wants to go up and get some gas can take what they want. And then those that are very, very sensitive to the type of fuel that they need can go to the no-ethanol pump so they can put it in those small engines that they're concerned about. I, personally, am not concerned. But it would allow, it would change the burden for those of us that support ethanol to pull in, like Senator Bloomfield said earlier, he pulls into the gas station, if he doesn't see the ethanol sticker, he goes to the next gas station. It would change that where you could pull into any gas station, you probably get ethanol your first shot out. And then if you're that individual that doesn't want ethanol then you could be the one, because I think that's a smaller group, they would be the ones that

Floor Debate
March 22, 2011

would have to go out and find that particular label. Now I had hoped this amendment would bring these sides together that are kind of at loggerheads on this issue. At this point it doesn't. There is still concern. The people that own the filling stations think that we're putting a burden on them that they have to go buy stickers and stick them on the pump. I think that with that in mind, my intention right now is to withdraw AM907 and refile it on Select File so each of you have an opportunity to kind of think about this concept. And it would go into effect January 1, 2012, so it would leave the current law the way it is until January 1, 2012, and then we'd flip. The ethanol stickers wouldn't have to be there. But if you have fuel that doesn't contain, you'd have to label it. And so it's just a reverse concept. I think that back in the day we labeled it so it would put people on notice. I think people are on notice. And now we want to give them that notice of where they can get something without ethanol. I think the ethanol industry has proven itself to be a quality product to put in your tank. It works fine in my vehicles and works fine in my lawn mower. And so I'm a believer in ethanol. And so with that, Madam President, I would withdraw AM907 and file it on Select File. And then I will vote for LB698 to Select so we can deal with that amendment at that time. [LB698]

SENATOR SULLIVAN: Thank you, Senator Langemeier. The amendment is withdrawn. Senator Haar, Ken Haar, you are next in the queue to speak. [LB698]

SENATOR HAAR: Madam Chair, members of the body, Senator Langemeier, thank you. If you file that on Select File, that would take care of my concern and I could support LB698. Thank you. [LB698]

SENATOR SULLIVAN: Thank you, Senator Haar. The Chair recognizes Senator Hansen. [LB698]

SENATOR HANSEN: Thank you, Madam President. I had a question for Senator Christensen, if he would yield. [LB698]

SENATOR SULLIVAN: Senator Christensen, will you yield? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR HANSEN: Thank you, Senator Christensen. If I go in...if I have a car that requires, in the book says you've got to use premium gas in it, and I go into any station right now and it says premium at whatever price it is and my book says got to use premium, so I fill up with that; if this bill would pass with Senator Langemeier's amendment, with the amendment we passed this morning, what would happen to premium gas in the future? [LB698]

SENATOR CHRISTENSEN: Well, premium gas typically right now has no alcohol or less than 1 percent, unless it's marked. So then the premium would have the sticker that

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

Floor Debate
March 22, 2011

says no alcohol in it, meaning less than 1 percent in it. [LB698]

SENATOR HANSEN: But would that be up to the manufacturer, not the manufacturer, but the retail outlet to put that on there? [LB698]

SENATOR CHRISTENSEN: I assume it... [LB698]

SENATOR HANSEN: I mean, if you don't mandate any labeling, we could have premium gas with alcohol. Is that correct? [LB698]

SENATOR CHRISTENSEN: If there was no label on, it would mean it could have ethanol in it. But if it has no ethanol in it they must label it that way under Senator Langemeier's amendment. [LB698]

SENATOR HANSEN: Okay. I think that in...Senator Langemeier, would you yield? Thank you, Senator Christensen. [LB698]

SENATOR LANGEMEIER: Yes. (Laugh) [LB698]

SENATOR SULLIVAN: Excuse me. Senator Langemeier, would you yield? [LB698]

SENATOR LANGEMEIER: Yes, I would. [LB698]

SENATOR HANSEN: Senator Langemeier, do you have any input on this question of mine, whether if my car requires premium gasoline, if your amendment passes am I assured that that gasoline is going to be ethanol-free, I guess, I mean, that it has no ethanol in it? [LB698]

SENATOR LANGEMEIER: The premium gasoline, currently the way the law reads, it's 1 percent or less. So it may have a freckle of ethanol in it now. [LB698]

SENATOR HANSEN: Yeah, um-hum. [LB698]

SENATOR LANGEMEIER: If we adopt the amendment that I just moved to Select File, it would require the retailer to put a sticker on premium that says it is ethanol-free or contains no ethanol. [LB698]

SENATOR HANSEN: And does your amendment specifically mandate then a label, that the gas station has to put that on there? [LB698]

SENATOR LANGEMEIER: It does. [LB698]

SENATOR HANSEN: Okay. Thank you, Madam President. [LB698]

Floor Debate
March 22, 2011

SENATOR SULLIVAN: Thank you, Senators Langemeier and Hansen. The Chair recognizes Senator Lautenbaugh. [LB698]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. I do appreciate the time to mull over Senator Langemeier's amendment that we'll have on Select it appears. I'm not sure what purpose it serves if we're trying to promote...well, honestly, I don't know why it matters which pump is labeled and why we would depart from what we have if we're just going to require the other pump to be labeled. Everyone is still going to know the same information, as near as I can tell. And at this point, I'm not sure why we'd be doing it. I did have a plan to sort of settle in this afternoon on this, maybe. I had drafted an amendment to provide an immunity from liability for people who sell ethanol because those are always popular and go well in my experience. And then I was going to explore a bracket motion. But I think we're out of speakers probably with me and so I had my amendment pulled back. And it is not my intent to pursue a bracket today on this. But I'll be honest, I'm unconvinced as to the wisdom of swapping the stickers around for the sake of swapping the stickers around. Thank you, Madam President. [LB698]

SENATOR SULLIVAN: Thank you, Senator Lautenbaugh. Seeing no other members wishing to speak, Senator Christensen, you're recognized to close on the advancement of LB698. [LB698]

SENATOR CHRISTENSEN: Thank you, Madam Chair. Again, I want to thank you for the great discussion we've had today. And again, if there's additional concerns, I just ask that you bring them to us, we'll sure look at them and see what we can do to hit everybody's concern. And I'd just ask you to vote green and move this bill to Select. Thanks. [LB698]

SENATOR SULLIVAN: Thank you, Senator. The question is the advancement of LB698 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Senator Christensen. Record, Mr. Clerk. [LB698]

CLERK: 25 ayes, 12 nays on the advancement. [LB698]

SENATOR SULLIVAN: The bill advances. Items for the record? [LB698]

CLERK: I have an amendment to LB177 and LB218 to be printed, Madam President. That's all that I have, thank you. (Legislative Journal page 915.) [LB177 LB218]

SENATOR SULLIVAN: Mr. Clerk, we will proceed to General File, LB388. [LB388]

CLERK: LB388 a bill by Senator Wightman at the request of the Governor. (Read title.)

Floor Debate
March 22, 2011

The bill was introduced on January 13, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I do have an amendment to the bill by Senator Wightman. [LB388]

SENATOR SULLIVAN: Senator Wightman, you're recognized to open on LB388. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President, members of the body. I've introduced LB388 on behalf of Governor Heineman to promote economic development in the state of Nebraska. LB388 will offer state funded financial assistance to stimulate the development of quality industrial sites and buildings on which to build businesses and industry and create jobs. In addition, the Affordable Housing Trust Fund is authorized to provide financial assistance to the demolition of dilapidated housing and industrial buildings. Last fall, the Department of Economic Development released a report based upon a comprehensive study conducted by the Battelle national consulting firm. Battelle reviewed the state's economic development fundamentals, which are issues such as power rates and the tax climate at any given state. There are issues that are addressed by a company...these are issues that are addressed by a company well before a company files an application under the Nebraska Advantage Act. Through that process, the Battelle study cited one major area of concern which are fundamentals with regard to economic development. Nebraska has little capacity in terms of industry-ready sites or assets. The Director of the Department of Economic Development, Richard Baier's testimony at the public hearing provided the numbers to support the need for LB388 as follows: In 2009, Nebraska was eliminated from consideration for six wind manufacturing projects solely because we lacked an acceptable site with all the necessary rail service; second, in the last two years, 170 of the requests for proposals sent to Nebraska began their request with an available site and building inquiry. Of the two largest projects we lost, the lack of buildings and technical capabilities, such basic infrastructure, were the biggest drivers in the decision for those companies. LB388 addresses this deficiency and establishes the Site and Building Fund, referred to in LB388 as "the fund." The fund is authorized to receive revenue from legislative appropriations, grants, private contributions, repayment of loans, and other sources. As introduced, LB388 provided for the startup costs with a one-time transfer of \$3 million from the Affordable Housing Trust Fund. And the page has passed out information that will show you the size of that fund on an annual basis for the last several years and the amount of monthly deposits into that fund. Approximately \$1.5 million of continual funding per year will be provided by using 30 cents...or 25 percent of the annual collections from the Real Estate Documentary Stamp fee directed to the Department of Economic Development. And I will have an amendment, a proposed amendment following the introduction of the bill, that would change that figure. So the money comes out of the, if all of you are aware of how the documentary stamp tax works, every time you file a deed conveying real estate that was sold, it wouldn't be true of gifts among family members, but based upon the consideration on that gift, \$2.25 tax has been

Floor Debate
March 22, 2011

charged for a number years. It's been lower and has been increased over a period of years. And that fund has been used or at least 90 cents out of...or \$1.25 in the past out of that \$2.25 has gone to Affordable Housing, excuse me it would be \$1.20 instead of \$1.25. So that money has gone...directed to the Department of Economic Development. AM649, which I will explain next, represents a compromise reached with the opponents of LB388 as introduced. And these opponents were primarily interests that were concerned over Affordable Housing. Activities eligible for assistance from the fund are: grants or zero-interest loans to municipalities or counties to acquire land, providing infrastructure or make large sites for buildings ready for industrial development; matching funds for new construction; rehabilitation or acquisition of land and buildings; technical assistance; design and finance; services and consulting for the creation of industrial sites and buildings; loan guarantees for eligible projects; projects making industrial sites more accessible; and finally, infrastructure projects for the development of industrial-ready sites and buildings. Only public and not-for-profit entities are eligible for the financial assistance with state financial support focused on land and infrastructure cost. Any entity receiving assistance must provide at least 100 percent matching funds for the project. No less than 40 percent of the funds shall go to nonmetropolitan areas or counties with fewer than 100,000 inhabitants. By January 1 of each even-numbered year, the Department of Economic Development, in consultation with the Economic Development Commission, is required to submit an action plan to the Governor for approval. The plan will set criteria to determine priorities for allocation of the funds, with first priority going to financially viable projects that have a business that will locate within 90 days of a signed agreement. To provide for ongoing accountability, the Department of Economic Development is required to submit an annual report to the Legislature regarding allocations from the fund no later than that July 1 of each year, beginning on July 1, 2012. And as has been explained, we do have an amendment to LB388 in the form of AM649 so. Thank you, Mr. President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Wightman. Mr. Clerk, for an amendment. [LB388]

CLERK: Senator Wightman would move to amend, AM649. (Legislative Journal page 812.) [LB388]

SENATOR SULLIVAN: Senator Wightman, you're recognized to open on your amendment. [LB388]

SENATOR WIGHTMAN: Thank you, Mr. President. AM649 reflects a compromise reached between the Department of Economic Development and the Affordable Housing interests that opposed the original version of LB388. AM649 makes three changes. The initial transfer of \$3 million to the Site Development Fund is reduced to \$2 million, and the \$2 million transfer is spread over two years rather than in a single year as provided...as LB388 was originally drafted. This will resolve concerns about the cash

Floor Debate
March 22, 2011

flow needed to fund the Affordable Housing projects that are in the pipeline for construction and still provides the necessary startup funds for site development. The third change is the annual allocation of revenue from the Documentary Stamp Tax. Allocation to the Site Development Fund is reduced from 30 cents to 25 cents. This will provide approximately \$1.24 million annually in funding for the Site Development Fund. Under this compromise, the state remains committed to affordable housing development. With the passage of LB388, the Department of Economic Development will also assist communities with one of the most pressing business needs facing Nebraska--providing industrial sites and buildings. People must have jobs to afford any housing. I would urge the adoption of AM649. As I say, it represents a compromise between the competing interests, represents a good faith compromise that will meet the needs of the state for both site development and to create jobs and necessary affordable housing for the jobs that are created. So I would just say that the thought process here is to use this money, at least this portion of these funds, where it will do the most good as far as making Nebraska available for industrial and business growth. And the Battelle study clearly states that that will be best assisted by this change in which some of these funds would be approximately, actually a little over TIF at the present time under AM649, it would be used for creating an acquisition of sites and infrastructure. Thank you, Mr. President, Madam President, excuse me. [LB388]

SENATOR SULLIVAN: Thank you, Senator Wightman. The Chair recognizes Senator Christensen. [LB388]

SENATOR CHRISTENSEN: Thank you, Madam Chair. What this bill is doing is taking, in the second part of this, the doc stamp projections, and I got them here in front of me. And when you look at the commercial industry right now it's roughly about 12.47 percent, and with this bill they will now be getting 25 percent of it. And I just sit here and question, is that really what we want to do? We're shifting the money that comes from other areas and we're sticking it in to the commercial, industrial. We're pulling it away from...because you got residential, multifamily, commercial, industry, agricultural, recreation, mobile home, little miscellaneous other and basically we're reshifting this. And I just ask the question, is this the direction you want to go? When you look at, for an example, Imperial, we have a housing problem. Do we want economic development? Absolutely, but they got to run hand in hand; if you pull the funds away from the housing and you're leaving this all on commercial, industrial development, you got to assume that they're going to build. Build it and they will come. We're all familiar with that movie. Is that really what we want to do here? I'm not telling you I won't support the bill, but at the same time I think we need to have this discussion because there's somewhat of a balance now on these doc stamps. And when we're going to pull 25 percent of this off, and the original bill was written at 30, so I do support AM649 because it makes it better as far as less being pulled off. But I still haven't decided on LB388 if that's actually the right step to go. Imperial maybe is an unusual location. But houses will bring more in Imperial than they will in Lincoln. I've had people laugh at that, but I can tell you an

Floor Debate
March 22, 2011

individual that wrote for the AP moved from Lincoln to Imperial and he said, I can't believe, Mark, I thought you was always lying to me when you said housing in Imperial is higher than Lincoln, it is. It is unbelievable. Yes, there is some higher housing in Lincoln. You've got your high-top inns, we don't have anything to compare with them. But we had three houses in a community of 2,000 sell over half a million a year ago. And them houses sell quickly. We have a housing problem. We even have a city that's looking at building townhomes for rental because housing is that short. It should be taken care of by private industry. I'm not sure I want the city involved in it, but at the same time, that's just how tight things are out there. And because of the situation of the city looking at that, a lot of people that was renting houses no longer...they have sold their homes, they have got out of the rental. It can be a difficult thing. So what we're doing in this bill is taking away from the housing and putting it into the commercial industry for economic development. And all I'm cautioning you on is let's not get out of proportion. And taking that \$1 million out, if you believe there's excess there, can be done and probably won't hurt the grants that are going... [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR CHRISTENSEN: ...over the long term. But at the same time, if you continue to take these doc stamps out without a sunset, which I may be offering to you if I...I know a little bit ago I was the last one on the queue. And if I don't get the opportunity to get it offered here, I'll look at it on Select. But I'm not sure we want to continue this program more than two years because then you're going to hurt the housing side of things and get it out of proportion. I'm going to have this copied off and be able to hand out so you can see where the doc stamp projections are by each type. And when you see how, now that you're going to have 25 percent going into what you're calling the economic development side, is that really what we want to do for a long-term basis? That would be my question for you. Thank you. [LB388]

SENATOR SULLIVAN: Thank you, Senator. Those senators wishing to speak are: Wightman, Wallman, Langemeier, Ken Haar, and Senator Council, and others. Senator Wightman, you're recognized. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President, members of the body. I think what Senator Christensen is referring to is a document that I assume he's going to pass out that shows the derivation of funds from what type of real estate the commercial...or various types of real estate, including residential, multifamily, commercial, industrial, and agricultural, contribute to the fund and it would be the \$2.25 on these various types of sales. And I would point out that 20.03 percent is agricultural, which probably is not being used for agricultural, but many of these industries do support agriculture. And I'm thinking particularly of ethanol plants, the infrastructure into various types of plants, all kinds of added value plants that would further agriculture. So even though it shows that commercial and industrial sales only constitute 12.47 percent of the addition or the

Floor Debate
March 22, 2011

amounts that are projected to be paid into the fund, by the time you add agriculture in, I don't think that it would be a fair or...I don't think that it would be a fair comparison necessarily. I think you have to look at some of the other drivers of this fund, and certainly one of them would be agriculture. There is a small amount for recreational, mobile homes. But at any rate, I would suggest to the body that the Battelle report, I think, is very important if we're going to develop a plan that allows us to continue down the road of getting the most bang for our bucks as we progress as a state. And I think it's very important at this time that we look at exactly how that money is being spent and what is best for the overall growth of the state of Nebraska. I would suggest to you that this is a most important time to grow industry in the state of Nebraska. I think we have some advantages that are occurring right now in that we have a particularly favorable climate for development of industry within the state, but because of that, we don't have ready sites available. We are unable to capitalize on some of the advantages we do have. And some of those advantages are kind of an average tax rate within the state. We've improved a lot from about 5th lowest, I think when I first served here in the Legislature four years ago, and at the present time, I don't remember the figure but I think we're maybe in the 30th, around 30th to 35th now compared to 46th as far as tax climate at that time. Other things that we have because of our public power, we have particularly low utility rates. And those are things that are considered by industry. But as you look at the Battelle report and look at the figures behind that you can see that most industries, before they locate here, want to know that there are going to be ready sites available, that there is going to be funds available to develop those sites. As I stated in my opening, we would be looking at a 100 percent match, which means that before they could even make an application to the state of Nebraska for any of these funds they would have to show where their 100 percent match is coming from. So either from a nonprofit agency or from the city or county or whoever is seeking these funds, they are going to have to show where they're going to receive their...or be able to contribute their 50 percent (sic) match. So it seems to me that the... [LB388]

SENATOR SULLIVAN: Fifty seconds left, Senator Wightman. [LB388]

SENATOR WIGHTMAN: ...thank you, seems to me that we can look beyond just how much industry and commercial contribute right now. And we could well look at some of those other figures, including agriculture. And if we only used half of what agriculture contribute to the funds, which would primarily be through sale of farms and agricultural properties, we'd be very close to the figure that we're talking about here. And it's about one-fifth as we go down to 25 cents instead of the 30 cents. So thank you, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Wightman. The Chair recognizes Senator Wallman. [LB388]

SENATOR WALLMAN: Thank you, Madam President, members of the body. Would

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

Floor Debate
March 22, 2011

Senator Wightman be open to a question? Thank you, Senator. [LB388]

SENATOR SULLIVAN: Senator Wightman, would you please yield? [LB388]

SENATOR WIGHTMAN: I will. [LB388]

SENATOR WALLMAN: I noticed there was quite a few opponents and one of them was Horizon Bank. What did they testify at length on, what was their opposition? [LB388]

SENATOR WIGHTMAN: Some of the affordable housing interests did. And that is the nature of AM649 is to address those issues. I might address the fact that two of the largest sites that would probably need cleanup, I think one is in Beatrice, in outstate Nebraska, and the other one is the Pinnacle Plant in Cozad. But those, according to my understanding in visiting with Richard Baier, the Director of Economic Development, those are two of the biggest, I think the two biggest outstate sites, two of the biggest in the entire state. [LB388]

SENATOR WALLMAN: Yeah, I appreciate this. I know there's always going to be a little controversy when you shift taxes from one entity to another entity. But we definitely need development in Nebraska. And also I'd like to ask Senator Louden a question. [LB388]

SENATOR SULLIVAN: Senator Louden, would you yield for a question? [LB388]

SENATOR LOUDEN: Yes, I would. [LB388]

SENATOR WALLMAN: Thank you, Senator. Senator Louden, do we have surplus property in the state of Nebraska right now would you say? [LB388]

SENATOR LOUDEN: Surplus property? [LB388]

SENATOR WALLMAN: Yes, buildings and things. [LB388]

SENATOR LOUDEN: I presume they do. You'd have to ask Senator Flood, he's got that up there at Norfolk, there is some surplus property there that's been in bad disrepair. That was the first one that came to mind. I don't know if there's some others. I think Hastings may have something over there. [LB388]

SENATOR WALLMAN: Well, thank you. And I would hope we do a better job with our own state property. And that's all, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Wallman. Those senators wishing to speak: Langemeier, Ken Haar, Council, Harms, and Christensen. Senator Langemeier. [LB388]

Floor Debate
March 22, 2011

SENATOR LANGEMEIER: Madam President, members of the body, I rise in support of LB388 but I rise in opposition to AM649. LB388 was designed to fill a need. The small communities in...I shouldn't say small, all communities across Nebraska need locations for business to develop. And so it started out by taking \$3 million to get some up-front money so we could start this process. As we all talk about our economic budget situation, we all seem to think that the economy is going to boom in the near future. And so LB388 was designed to have \$3 million to start that process, so when the boom started we'd have some sites for people to go. I can tell you in Schuyler, Nebraska, I got a call the other day from a gentleman out of Colorado that wants to build a building. We have nowhere to put it. We...our infrastructure, our water, our sewer, everything doesn't go outside, barely goes to our city limits, let alone outside anywhere to add something on the edge. We're also surrounded by a flood plain of about 85 percent of the community, so that limits us too. So I think the importance is if we want to try and get this money ahead of this economic recovery that we're all hoping for, I think you need to take LB388 in its original form with the \$3 million. AM649 takes it to \$1 million and I really think at that point what good does that do across the state of Nebraska. My opinion is if you add AM649 on I'm not sure you need LB388. I think you've watered it down so far that it doesn't do anything. I think the time is now. I think our priorities change. I am all for affordable housing, but I think in today's market we need to get some business going. And then, as we talk about into the future, we can have the housing to follow; if a business comes to a community there is going to be local contractors that say, hey, you're going to hire some more employees, we're going to build you some more housing. I know there is some discussion about where this money comes from. Well, it comes from revenue stamps and it comes from revenue stamps sold on houses, sold on farms which pay a big share of this, and commercial. And so I think the money is coming in. We chose to put it into Affordable Housing, which I think was a great use for it. A great deal of money is still going to remain for affordable housing with LB388. This doesn't cut them off. So I think we're still supporting Affordable Housing, but we're putting an emphasis right now on building site development. And so I'm going to support LB388 and its green copy and I am not going to vote for AM649. Thank you, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Langemeier. The Chair recognizes Senator Ken Haar. [LB388]

SENATOR HAAR: Madam Chair and members of the body, I have a few questions. I'll most likely support LB388 and AM649, but I have some questions for Senator Wightman. [LB388]

SENATOR SULLIVAN: Senator Wightman, would you yield for a question? [LB388]

SENATOR WIGHTMAN: Yes, I will. [LB388]

Floor Debate
March 22, 2011

SENATOR HAAR: Okay. Thank you. Is there any consideration in this made where the money will go or is that strictly up to the Department of Economic Development? And just as an example, let's say a town like Beatrice where a company has moved out and now there's a large space available, would that make any difference? [LB388]

SENATOR WIGHTMAN: It no doubt would. It certainly will be within the discretion of the Department of Economic Development, but the bill actually provides that the biggest item in making those determinations is the viability of the building coming in or the firm coming in and that they would locate here within 90 days if there was a commitment of that expenditure. And I think their feeling is that that's more important than maybe spreading the amount around the state. And I know there's been some discussion of that. Although there is a 40 percent here, but I think that's largely here because two of the biggest sites are in outstate Nebraska, and when I say outstate, not necessarily the western half of the state, but all except the three metropolitan counties. [LB388]

SENATOR HAAR: Okay. Good. Thank you. And then, if a nonprofit entity bought the land, does that take it off the tax roles or do nonprofits still pay property tax? [LB388]

SENATOR WIGHTMAN: Well, for an industry or business purpose, it's my understanding that it still stays on the tax role. So usually I think those nonprofit entities would be such entities are established by a city or a county to act as a go-between so that perhaps bond issues or whatever may not be necessary, but that you'll have an outside body that probably created by the city or county that would act as that entity. [LB388]

SENATOR HAAR: Okay. And the ownership of the land, let's say if a city bought a land and used money for this purpose, would the city still own the land or would the company coming in own the land? [LB388]

SENATOR WIGHTMAN: I think that can be either of several possibilities. One, I think the city could continue to own the land and lease it for that purpose or the county. I think a second option is, is just a long-term lease with the industry that is coming in. And third would be probably some kind of a lease option. So I think, Senator Haar, those would be the three options, but I think they will remain on the tax rolls because of the fact that...even if the city owns it, my understanding is that if it's used for a business purpose, a purpose that would normally create a tax liability that that would continue. [LB388]

SENATOR HAAR: If nothing else, probably in lieu of tax or...? [LB388]

SENATOR WIGHTMAN: Well, I think it would probably be the taxes. Now I think a lot of these may be TIF financed. You know that's a popular economic tool around the state

Floor Debate
March 22, 2011

and we talk about the economic toolbox. And I know a city that's probably used that about as much for its size as any city in the state of Nebraska has been the city of Gothenburg, which is in my district. They have "TIFed" I don't know how many. There's an attorney there who used to practice with me by the name of Mike Bacon who has kind of become the king of TIF financing in the state of Nebraska, and probably is as knowledgeable as anybody concerning TIF financing. [LB388]

SENATOR HAAR: Okay. And then, what would be other nonprofits that might do this other than a city or a county? [LB388]

SENATOR WIGHTMAN: Well, I find it difficult... [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR WIGHTMAN: One minute. [LB388]

SENATOR SULLIVAN: Yes. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President. I find it difficult to think of anything other than those that would likely do it but there could be, I suppose, a nonprofit. I don't see it being a charitable organization, particularly. So the nonprofits probably not referring in many instances to a charitable organization. It's just going to be an entity that might be an industrial development entity for the city or one that has particularly set up a facility for that. [LB388]

SENATOR HAAR: Okay. Thank you very much. [LB388]

SENATOR SULLIVAN: Thank you, Senators. The Chair recognizes Senator Council. [LB388]

SENATOR COUNCIL: Yes, thank you, Madam President. I will tell Senator Wightman and the proponents of LB388, at this point, I'm rather conflicted. I can tell you that I understand and appreciate the need to provide for site development. I've been a member of the executive committee of the North Omaha Development Project in trying to attract industry into northeast Omaha. One of the impediments has been available sites, so I appreciate that there is a need to provide some type of assistance particularly to cities and other political subdivisions to develop these sites. But I am concerned about the source of the funding to carry out this site and development fund. And I'm concerned, number one, because if you look at the individuals and organizations represented by the opponents who testified at the hearing, they make up, you know, essentially the group that has been responsible in some form or fashion for the overwhelming majority of housing development in the district that I represent. We have had very little, if any, private sector market-based housing development in District 11,

Floor Debate
March 22, 2011

and I daresay, in most of northeast Omaha. So we rely on these not-for-profit organizations that utilize the Nebraska Affordable Housing Trust Fund to develop some of these housing projects. Those housing projects do provide not only decent and affordable housing for low to moderate income residents, but it provides employment opportunities for people who live in the district. Now, admittedly, new industrial development could result in increased employment opportunities. But one of the concerns I have about the bill, and I think Senator Wightman may have been alluding to it in part, in response to a question from Senator Haar. Under the Nebraska Affordable Housing Trust Fund as it operates now, no percentage of those funds are earmarked for any particular area of the state. If Senator Wightman would yield and respond to that question. [LB388]

SENATOR SULLIVAN: Senator Wightman, would you yield? [LB388]

SENATOR WIGHTMAN: I will. [LB388]

SENATOR COUNCIL: Am I correct in that statement that under the current law, the Nebraska Affordable Housing Trust Fund dollars, there is no earmarking of a percentage of the funds that are generated through the documentary tax, and they're not specifically designated for specific areas of the state? They're designated for specific type of projects and that's low to moderate income housing, correct? [LB388]

SENATOR WIGHTMAN: I believe that's true. I'm not going to say for sure, but I don't believe there's any method right now where it would be earmarked for a particular area of the state. [LB388]

SENATOR COUNCIL: Okay. And see that's where my concern is because what we're being asked to do here actually is to trade-off low to moderate income housing construction for industrial site development. And that's basically what we're being asked to do is to provide some trade-off. It's not the elimination of low to moderate income housing, but to provide some trade-off of low to moderate income housing for industrial site development. Yet in LB388, not less than 40 percent of all of the available funds under the site and building development... [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR COUNCIL: ...has to be designated for nonmetropolitan areas. So my district, which is being now impacted by the potential reduction in low to moderate income housing construction and development, is going to be limited in its ability to access dollars from the Industrial Site Development Fund because 40 percent of those funds are earmarked for nonmetropolitan areas. Could you address that, Senator Wightman? [LB388]

Floor Debate
March 22, 2011

SENATOR WIGHTMAN: Well, first of all, I stand corrected with regard to the fact that there is no earmarking of the affordable housing funds. Actually, 25 percent is set at the limit...not the limit, but 25 percent has to be directed to each of the three Congressional districts, and then 25 percent is at large across the state of Nebraska. So I... [LB388]

SENATOR SULLIVAN: Time, Senators. Senators wishing to speak: Senators Harms, Christensen, Schumacher, and Council. Senator Harms, you're recognized. [LB388]

SENATOR HARMS: Thank you, Madam President and colleagues. I rise in support of AM649 and underlying bill LB388. I really believe this is an important piece of legislation, particularly when you get deeper into rural Nebraska. One of the problems we have is, we have issues in regard to the infrastructure. We just can't get it in because there's no way for us to finance it in many cases. The infrastructure is important to us. I know that when companies come and they'd like to be able to have a facility, many have had to walk away from communities in rural Nebraska because we didn't have any way to do this. And even the study that was done by the Department of Economic Development reveals this is a number one issue. We don't have any opportunities for site preparation. We have no opportunities for infrastructure. We have no opportunities to attract companies here without being able to do this. And so what I would hope you would do, colleagues, is that you would support this. If there are changes that you want to make in Select File, then let's make those changes. But I think it's important because I think the future depends upon this. I do not believe we'll be able to attract companies and businesses as we go farther into rural Nebraska without this sort of opportunity here. There's just simply no way to finance it. You know as far as housing is concerned, one of the things that I've seen happen in my own community, in one of our communities in Gering, they put an infrastructure in many years ago. And they just kind of left it there. I think people almost forgot about it. And in time they started building there and because of the fact they had the infrastructure in, it was more cost effective, as efficient. They got it in at much lower prices, they were able to build housing that was affordable. And so for every day and every year we wait that we can't get infrastructures in either for housing or for economic development as far as a company coming in, we lose because it just gets more expensive. And look at how competitive this new world global economy is going to be and is today. And this does give us the opportunity to be able to compete. And that's what this is about, is being able to compete, not only within our own country, but to compete internationally and to be able to have an infrastructure for economic development, and to have an infrastructure for technology is really important for us. And if we put any kind of infrastructure in, if we do any building for the future, you've got to keep technology in the center of this because that's where it's going to be. Technology is going to make it happen for us. Nanotechnology has changed the world, colleagues. Nanotechnology has revolutionized how we do business and what we will do in the future whether it be in business or whether it be in medicine. It's made major changes. So I would hope that you would give this serious thought and think through the concerns that you have with

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

Floor Debate
March 22, 2011

AM649 and LB388. If you have the opportunity and want to vote for this, do it, and if you have to change it, let's make our changes when we're in Select File. Madam President, I would yield the rest of my time to Senator Wightman, if he would like it. [LB388]

SENATOR SULLIVAN: Senator Wightman, 1 minute 52 seconds. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President. Thank you, Senator Harms. I would like to address the issue that I was just starting to discuss with Senator Council with regard to the division currently existing under the affordable housing provisions. And that is, that it was 25, 25, and 25 to the three Congressional districts and 25 at large. While I don't have exact figures, we have visited with the Department of Economic Development and it is my understanding that that 25 at large is pretty much divided equally, historically, not because of any particular reason but it just happened that way. So you get down to about 33 1/3 percent for each of the three Congressional districts. So it is true that... [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR WIGHTMAN: ...guaranteeing one...and I would remind you, first of all, that the three metropolitan counties do not make up 50 percent of the total. They make up about 47 percent and represent part of two Congressional districts. So it would appear that they probably have been getting more than the 33 to 35 percent just because of the extra numbers. I think my figures, when I was addressing issues raised by Senator Burke Harr with regard to Senator Hadley's bill previously, was that the three metropolitan counties represented about 52.3 or 4 percent of the total population of the state of Nebraska, so 47 point something represents the population or population percentage of the rest of the state that would not be encompassed... [LB388]

SENATOR SULLIVAN: Time, Senator. [LB388]

SENATOR WIGHTMAN: ...within the three metropolitan counties. Thank you. [LB388]

SENATOR SULLIVAN: The Chair recognizes Senator Schumacher. [LB388]

SENATOR SCHUMACHER: Thank you, Madam Chairman or Chairwoman and members of the body. Senator Langemeier's comments rang a cord with me in that a \$1 million is probably not worth talking about. That's about 120 acres of land. And I don't think, realistically, we can think that 120 acres of land really going to make much difference at all. I'm not so sure that the original \$3 million would make difference. But all this underscores again, I think, the role of government. I'm told that Senator Warner when he was here said, the function that we perform here is transportation, education, and public safety. And apparently over the years we've begun to muddle in economics. We'll give a grant here for housing. Well, why are we doing that? Well, people need low

Floor Debate
March 22, 2011

affordable housing so we will give some folks, I'm told, somewhere around a \$20,000 interest-free, principal-only, repayment-upon-sale, if you make any money, loan in order so that they can come to a community and receive probably wages less than what would have to be paid were the program not there, and that would result in businesses coming because they could get by with a little cheaper wages. We're also talking then, well, let's develop a site for this business because other states are developing sites for their business, and we won't be economically competitive if we don't develop sites. And so we're moving around the poor taxpayers money to try to manipulate the economy to some advantage. Unfortunately, other states are doing the same thing and we're in probably one big stalemate. But basically, I think I am in favor of taking a gamble on LB388 at the \$3-million figure and as far as AM469, a \$1 million just isn't worth it. Thank you, Madam Chairman. [LB388]

SENATOR SULLIVAN: Thank you, Senator Schumacher. The Chair recognizes Senator Council. [LB388]

SENATOR COUNCIL: Thank you again, Madam President. And again, Senator Wightman, if he would be willing to yield to some questions. [LB388]

SENATOR SULLIVAN: Senator Wightman, would you yield? [LB388]

SENATOR WIGHTMAN: Yes, I will. [LB388]

SENATOR COUNCIL: I'm referring to the chart that was distributed on your behalf and it's entitled NAHTF estimated cash flow based on project analysis... [LB388]

SENATOR WIGHTMAN: Yes. [LB388]

SENATOR COUNCIL: ...and I'm looking at the column that says, with LB388. And what I want to be clear on, is that LB388 as originally drafted or LB388 as amended by AM649? [LB388]

SENATOR WIGHTMAN: My understanding is that would be with LB388 and not with...or would be...it would be with the amendment, excuse me. [LB388]

SENATOR COUNCIL: Okay. And that's what I'm trying to be clear on because it shows a \$1 million being transferred during 2011 and it shows a \$1 million being transferred during 2012 and it shows how the fund is projected to be utilized. And I guess that's one of the things I want to point out in terms of the concerns expressed by both Senators Langemeier and Schumacher. As I look at this projected analysis, just based on the \$1 million a year, and what I understand to be the project commitments under the Nebraska Affordable Housing Trust Fund that by the end of June 2014 it would only be a \$1 million...and \$1,000,900,000 in that fund, is that...\$1,900,000, is that correct,

Floor Debate
March 22, 2011

Senator Wightman? [LB388]

SENATOR WIGHTMAN: That's what it shows and that would be with the amendment, so would be with both LB388 and the amendment. [LB388]

SENATOR COUNCIL: That would be with...yeah, and the amendment. So without the amendment that number would be somewhere below \$1 million would that be correct? [LB388]

SENATOR WIGHTMAN: I'm assuming that's correct. [LB388]

SENATOR COUNCIL: Okay. So, I mean, in terms of the impact on affordable housing, and as I understand the way that the LB388 is drafted, and again, Senator Wightman, correct me if I'm wrong, if a political subdivision makes application to the Department of Economic Development under LB388 for a loan or a grant for industrial site development, isn't there a matching obligation associated with that? [LB388]

SENATOR WIGHTMAN: Right. And that I discussed in my opening that the local entity, whether it be the not-for-profit or whether it be the city or county, or public entity, would have to match with 100 percent of that figure. So if they were seeking a \$500,000 grant for site development, they would have to put up \$500,000 of their own money as well. Now it's possible that some of those could come through other grants but they couldn't come in under this particular fund. [LB388]

SENATOR COUNCIL: Right. So in terms of the money available for a particular site development with AM649, while there's a \$1 million transfer, that's designed to leverage \$2 million worth of site development, correct? [LB388]

SENATOR WIGHTMAN: That would be correct because there would have to be at least that much match and it could be more than that but it couldn't be less than that. [LB388]

SENATOR COUNCIL: It couldn't be any less than that. And then number two with regard to the allocation of dollars under both the affordable trust fund and the proposed site development fund, I noted in the bill it spoke to the Department of Economic Development establishing annual priorities. [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR WIGHTMAN: I missed that. [LB388]

SENATOR COUNCIL: It makes reference to the Department of Economic Development establishing annual priorities. [LB388]

Floor Debate
March 22, 2011

SENATOR WIGHTMAN: That's correct. [LB388]

SENATOR COUNCIL: And I guess in that context, I was wondering if they're establishing annual priorities, is it the intent that those annual priorities are based upon 40 percent of funds available going to nonmetropolitan areas or what if the annual priorities they identify are all existing metropolitan areas? Would they not be able to access this fund? [LB388]

SENATOR WIGHTMAN: Well, I think they still have to act within the 40 percent and 30 percent for each...and, of course, it isn't limited to 30 percent for each of the other two because 50 percent of that could go to one city and 10 percent to another, I mean, because it doesn't define the amount of contribution that could be made other than the 40 percent. So... [LB388]

SENATOR SULLIVAN: Time, Senators. The Chair recognizes Senator Pahls. [LB388]

SENATOR PAHLS: Good afternoon, Madam Chairperson. After listening to Senator Langemeier and Senator Schumacher, it does appear that we're arguing about perhaps a minimal amount of money. We started out originally with \$3 million and then we are going to...at least that's one of the amendments, it will be \$1 million for two years. So we're dropping down and are we going to get enough bang for the buck? Are we causing a lot of turmoil and perhaps getting naught? I have to commend the Department of Economic Development for trying to stimulate our economy or to do good things for the state. In fact, their programs, I see the need of that. I was interested to hear from Senator Langemeier that somebody wants to come to his particular...and I'm going to call it a small town, but there's no land available. That part I like. I hope that is happening throughout the state that we have communities that already know somebody will come to their community, especially if that land is ready to go. Remember at the federal level, they said, shovel ready. I'm hoping that we have enough of those communities out there. I don't hear that from a number of senators standing up who represent some of those smaller communities. If I could hear that, I would feel even much more willing to say, let's...say to heck with \$3 million, let's up that. I think the other day when Senator Schumacher, I think it was on Senator Hadley's bill LB387, he says, here again we're arguing...I think that bill is around \$7 million, we're arguing amounts of money, legitimate arguments, but should we be arguing because the amounts are larger, and maybe we should be more aggressive. If this is to help turn the state around, maybe we need to be more aggressive and take a look at how we're spending other monies because Senator Hadley told me the other day that when I had a concern about the number of employees that were...a number of people, FTEs that we're going to be adding to the Department of Economic Development, he said, Rich, this is actually, we're reshifting. We're reshifting and that's what we are also doing with the personnel. Again that's one reason why I'm watching the personnel on all these bills as this bill has an additional FTE. I just think that's one of the things we need to be talking about. So I

Floor Debate
March 22, 2011

went to the Department of Economic Development, I said we need to get more money for you because if you're going to have these employees, we need to really keep them busy. So I do see the fallacy of cutting back. This bill came out of the committee with not...these amendments were not attached to it, so that's probably the reason why you see Senator Langemeier and I standing up and saying, hey, the original bill did maybe have a little bit more meat to it. Again I would like to hear from those senators if in your community you know somebody is going to be there or the potential is there other than, I wish, or I hope, it would really add some credibility when we are trying to help certain parts of the state. But whether it be the metropolitan area or the rural areas, if you could say, we know this is going to happen. We know at Kearney, Nebraska, this could happen if this were...this land was available. All we had to do is say, come here, we have something that we're going to entice you to this particular city. And I'm assuming that there are some out there, but you just are not telling us that and I'm hoping that you do come up to the mike and give us some reason why we say, hey, let's really make this, the \$3 million or if the amendment is...if you do approve the amendment. I support the bill. The amendments, I probably haven't made my mind up totally on that because I truly believe we need to be speaking about... [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR PAHLS: ...we need to be speaking about larger monies. Thank you. [LB388]

SENATOR SULLIVAN: Thank you, Senator Pahls. The Chair recognizes Senator Wightman, and, Senator, this is your third time to speak. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President. I hate to use my final time so early but I did want to address some of the issues raised both by Senator Pahls and Senator Schumacher. And I agree that \$1 million per year is pretty short, but I would also request that you take into consideration that we are going to...if the bill passes, we are going to have the 25 cents that would be redirected to this fund and the projection of that is \$1.24 million. So instead of \$1 million each of those two years, based upon projections again, there would be about \$2.24 million available. Now it may not all be available at the first of the year, although there might be discretion as far as that timing is concerned with the Department of Economic Development. But I think it is important to know that a lot more than \$1 million or a substantial amount more than \$1 million will be available on an annual basis. And with the 100 percent match, we're in hopes that that would provide a fair amount of revenue for site acquisition and development. So I think this is very important. I will be supporting AM649 because it is...represents a compromise between the Department of Economic Development and the affordable housing interests that are involved. And while I can see the arguments on the other side, this was to compromise so that the affordable housing people would look favorably upon the bill and my understanding is that such compromise was reached. With that, thank you, Madam President. [LB388]

Floor Debate
March 22, 2011

SENATOR SULLIVAN: Thank you, Senator Wightman. Senator Council. [LB388]

SENATOR COUNCIL: Yes, thank you, Madam President. And Senator Wightman did address the point that I wanted to make in response to Senator Pahls and others that while the one-time transfer is reduced to two annual transfers, so it's only a reduction of \$1 million in terms of the total amount being transferred and the bill does now provide for splitting of the documentary tax revenue with a portion of it going into the site and building development fund. And with that understanding, and certainly Senator Wightman, with the understanding that AM649 does represent a compromise between the interests represented currently through...involved with the Nebraska Affordable Housing Trust Fund, and the interests of cities and counties who want to be able to make industrial sites available, and again I note for the record that the planning director for the city of Omaha testified in support of LB388. My concern was the number of low-income housing development entities that testified in opposition, and now with you advising on the record that AM649 represents a compromise based on discussions between those two interests, I stand in support of AM649, and will support LB388 with that amendment and yield the balance of my time to Senator Wightman, if he would like to use it. [LB388]

SENATOR SULLIVAN: Senator Wightman. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President. Thank you, Senator Council. As was so ably pointed out by Senator Council, this does represent a compromise. When I spoke with regard to the additional funding that would be available, I neglected to mention Senator Langemeier, as well, who had raised that issue as to whether that would be sufficient on an annual basis. And I'm sure the argument can be made that maybe more dollars would be more helpful in this site development, but on the other hand we had to look at a compromise that was at least going to pretty well satisfy the affordable housing interest as well. And I know a lot of you have affordable housing developments within your districts, and so we attempted through AM649 to address that issue and still leave funds available. Will there be less money available? Certainly there will, but I'm going back to the Battelle report that if we look at the overall development of the business climate in the state of Nebraska, I think that interest is best furthered by using a amount of this money, which we consider to be a reasonable amount, for site development and acquisition. I think it's very important that we do this. Obviously, whether they're public entities or whether they're going to be not-for-profit organizations or entities, there's going to need to be a substantial amount of work done for them to contribute. I think most of them will be contributing more than that probably through TIF financing. I'm gathering that TIF financing probably does not count toward that, although I guess I can't tell you that for sure either, but they're going to have to raise money outside. So you're going to have to know that these are serious and the number one criterion as far as developing priorities... [LB388]

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

Floor Debate
March 22, 2011

SENATOR SULLIVAN: One minute. [LB388]

SENATOR WIGHTMAN: ...will be...thank you, Madam President, will be the fact that it's a viable project and so I think during the first several years under LB388 and with AM649 we're going to be looking at sites that the Department of Economic Development will be, that likely will result in a company moving here because those are the two big issues. Number one, whether they're a reasonable viability to the project that we're talking about, and number two, are they willing to relocate within 90 days. So I think both of those are both very important factors. With that, thank you, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Wightman. The Chair recognizes Senator McCoy. [LB388]

SENATOR McCOY: Thank you, Madam President and members. I'd like to applaud Senator Wightman for bringing LB388. As you can tell if you look at the committee statement, I voted for this out of the Banking, Commerce and Insurance Committee in its green copy form. And I do not stand in support of AM649. I would believe that if it's important to fund this legislation, that we do so with the full \$3 million and try to bring as many new businesses to the state as possible as quickly as possible. I am concerned with this amendment in that not only does it take the amount down considerably, but also changes the dates as well as far as when this money is transferred. And I believe this will just impede the progress going forward of bringing new businesses to our great state. And with that, I would add my voice to those who are opposed to AM649, but in support of the underlying bill, LB388. Thank you, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator McCoy. Seeing no other senators wishing to speak, Senator Wightman you are recognized to close on your amendment. [LB388]

SENATOR WIGHTMAN: Thank you, Madam President and members of the body. As I said, I stand in support of AM649 which I guess I should be since I brought the amendment. But as I have explained, it is a compromise that was reached between the Department of Economic Development and the affordable housing interest which could represent housing authorities throughout the state, could represent contractors and various groups that might benefit from the affordable housing. Both sides thought they could live with that. Actually there was some compromise suggested that would have directed instead of 25 cents only 20 cents and that was rejected and that became part of the compromise so that it would still remain...it started out at 30. The affordable housing interest we're suggesting that it be reduced to 20 so a good deal of thought went into this bill and the amendment by both sides. They arrived at the compromise; I didn't. They both feel that they can live with that, and I think it probably makes it a more palatable bill to both interests and so I would urge you to support AM649. Again I would

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

Floor Debate
March 22, 2011

remind you that not only...that it's really a \$2 million infusion as far as the cash fund is concerned but that it would be in two fiscal years which will probably be a year and a few days because they have to be done after January 1, 2012, on the first \$1 million and January 1, 2013, on the second. But in addition to that, they will have the additional redirect of funds which are estimated to be about \$1.24 million per year. So there would be \$2.24 million the first year and probably shortly after that could be as much as \$2 million added to that fund or to the site development fund. So again, I urge your support for AM649. Thank you, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Wightman. The question is, shall the amendment to LB388 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Wightman, you're recognized. [LB388]

SENATOR WIGHTMAN: I would request a call of the house, Madam President. [LB388]

SENATOR SULLIVAN: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB388]

CLERK: 36 ayes, 0 nays to place the house under call. [LB388]

SENATOR SULLIVAN: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Avery, Senator Ashford, Senator Lautenbaugh, Senator Loudon. Senator Wightman, how would you like to proceed? [LB388]

SENATOR WIGHTMAN: I'd like a roll call vote in regular order. [LB388]

SENATOR SULLIVAN: Mr. Clerk, we ask for a roll call vote in reverse order. [LB388]

SENATOR WIGHTMAN: Regular order. [LB388]

SENATOR SULLIVAN: Regular order, excuse me. [LB388]

CLERK: (Roll call vote taken, Legislative Journal pages 915-916.) 21 ayes, 20 nays on the amendment. [LB388]

SENATOR SULLIVAN: The amendment fails. Discussion on the advancement of LB388 continues. Excuse me, the call is raised. Seeing no senators...oh, excuse me. Mr. Clerk. [LB388]

CLERK: Senator Conrad would move to reconsider the vote just taken with respect to

Floor Debate
March 22, 2011

Senator Wightman's AM649. [LB388]

SENATOR SULLIVAN: Senator Conrad to open. [LB388]

SENATOR CONRAD: Thank you, Madam President and thank you, colleagues. To be clear I hadn't had a chance to speak on the record yet and I am fully supportive of AM649 and to LB388 and want to thank Senator Wightman and the many parties who have worked diligently to reach a sound and important compromise on this topic as we move forward. And knowing kind of where the votes may have ended up, I decided to not vote on the adoption of the amendment so that we could specifically preserve the right to bring this reconsideration motion, and provide a little bit more time and debate to the members to answer additional questions, and to build a more complete record, and to ensure that if there are legitimate points of consideration that that need more work, let's do that in a more cooperative kind of posture as we move forward from General File to Select File. But the amendment was something that Senator Wightman and members of the affordable housing community, economic development professionals, the department, the state agencies involved, and countless individuals have worked on, and is really integral to moving this legislation forward in the best possible posture. So I'm serious about this reconsideration motion. I'm hopeful that if you have questions you take the opportunity to ask Senator Wightman on the mike. There's a whole host of experts on this topic out in the lobby as well today who can provide additional information and insight from your different communities or some of the other entities that I've mentioned. And please take a moment to think about these issues because this is one critical piece of the overall economic development package that the Governor put forward this year that's been working its way through the Legislature. And this amendment is really important to ensure that we have a cooperative posture in place on these important issues related to site development prior to moving forward. So with that, I'd urge your careful consideration of the reconsideration motion. It is substantive in nature, in my opinion, and I'm hopeful that we'll be able to have the time that we need to move forward on this, and to do the additional work if there is any that remains to be done from General to Select File. Thank you, Madam President. [LB388]

SENATOR SULLIVAN: Thank you, Senator Conrad. The Chair recognizes Senator Council. [LB388]

SENATOR COUNCIL: Thank you, Madam President. I rise in support of Senator Conrad's reconsideration motion and I just want my colleagues to be reminded of what occurred at the hearing on LB388. At the hearing on LB388 there were numerous individuals representing organizations testifying in favor of LB388, but there were almost an equal number of people testifying against LB388. And it has been my experience in this body that when we've had that level of opposition to a bill that is, nevertheless, advanced out of committee, we look to see and we make efforts to try to resolve the differences between the proponents and the opponents so that we can arrive at a bill

Floor Debate
March 22, 2011

that meets the purposes and intent and addresses all of the concerns of the individuals who are most affected by the legislation. And the people most affected by the legislation are chambers of commerce, cities and counties, and those who are involved in the affordable housing development arena. They came to an understanding here. I appreciate the concern about what's \$3 million. Well, that \$3 million would be transferred this year and what would have to be expected in order for that to be utilized, is for those cities and counties and for those not-for-profits to have \$3 million available to match it. Where do they get it from, colleagues? You know, cities and counties, we cut them off on a number of fronts, so where are they going to get the money to match it? They'd have to wait for their next budget years to come around and that's why the amendment is appropriate because there's a \$1 million transfer this year, there's a \$1 million transfer next year. So by the time that the cities and the counties are in a position where they can come up with a match, there's \$2 million there plus the 25 cents from the documentary tax that will go into this fund beginning this year. This was a compromise. Something that we look to accomplish in most cases when there is serious and concerted opposition to legislation that...proposed legislation that, nevertheless, makes it to the floor. I commend Senator Wightman for his efforts in seeking to arrive at an appropriate compromise that balances the interests of the affordable housing community. And I want to tell you, because it would be very easy for me to vote against this because the district I represent, unfortunately, is not going to be a direct beneficiary of site and industrial development usage, but it certainly, certainly benefits from continued development of low to moderate income housing that provides decent and affordable housing for the residents of that district and provides employment opportunities. The industrial sites that would be developed, I would hope, would be close enough to my district that my...the residents of the district could benefit from any employment created. But rest assured, I mean, this is not going to be occurring anytime in District 11, you know, unless you'd utilize the portion of the bill that talks about mass demolition of old buildings and housing. So I would urge the body to please vote in favor of the reconsideration, take into consideration that this is a bill... [LB388]

SENATOR SULLIVAN: One minute. [LB388]

SENATOR COUNCIL: ...that was not advanced with, not only no opposition, it was advanced with significant opposition, and AM649 is designed to address that opposition. Thank you. [LB388]

SENATOR SULLIVAN: Thank you, Senator Council. The Chair recognizes Senator Wallman. [LB388]

SENATOR WALLMAN: Thank you, Madam Chairman. I, too, want to thank Senator Conrad for bringing this bill forth for reconsideration and I think if we think on this, and I thank Senator Wightman for bringing this forth. And also Senator Council's comments on reconciliation on, you know, on deals and things like this. They're not fun to make,

Floor Debate
March 22, 2011

but when you get this extra effort put forth in a bill like they did, and we should thank Senator Wightman and all these others, and please support this reconsideration motion. Thank you, Madam...Mr. President. [LB388]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Wightman, you're recognized. Senator Wightman, you're recognized. [LB388]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I do stand in support of the motion to reconsider by Senator Conrad. Again we're visiting with the interests to see if there's any change in the position of either the affordable housing or the Director of Economic Development, and so those conversations are taking place at the present time. But again this was a compromise reached after a good deal of discussion between the two. The Department of Economic Development actually preferred the larger figure but agreed they could live with these figures even after the compromise was first struck. The affordable housing interest really would have preferred to have gone to the 20 cents, but instead...or excuse me, stated 30 cents...no, they...at any rate the 25 was also a separate compromise in order to bring the two sides together. So I will vote in favor of the reconsideration motion by Senator Conrad. Again I think when we consider the amount of money that will flow, it's not just the \$1 million a year but \$2.24 million, assuming that the projections reach where they're projected to be. I think it is a fair compromise between the parties. And so I will vote for the motion to reconsider. Short of that, I guess we might consider moving the bill forward with a understanding that we would vote and then they can bring your motion back at a later time or different motions. But again I would ask and urge that you vote in favor of the reconsideration motion. Thank you, Mr. President. [LB388]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Campbell, you're recognized. [LB388]

SENATOR CAMPBELL: Thank you, Mr. President. And I rise to support the reconsideration motion. I had voted in opposition to the amendment but have had some off the mike discussions, and partly because I was very concerned about Senator Langemeier's point about whether there would be enough funds there on a \$1 million. I would be interested and certainly would work with Senator Wightman and whoever. But I would almost like it to see that if we adopted that amendment, perhaps there's another clause that we could add to say that if a proposal comes forward that the department could consider up to a specific amount of using the funds. Not knowing and not expecting that every single year you're going to have that large of a project. So I would be willing to reconsider if we looked at some work between General File and Select. Thank you, Mr. President. [LB388]

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

Floor Debate
March 22, 2011

SENATOR LANGEMEIER: Thank you, Senator Campbell. Those still wishing to speak, we have Senator Krist, Senator Ken Haar, and Senator Hansen. Senator Krist, you're recognized. [LB388]

SENATOR KRIST: You're not supposed to stand up at one of these mikes being televised all over Nebraska and say you're confused, but I am confused. I was under the impression that there was a percentage and not actual a quarter being applied out of the total. I was also not aware, I guess, that in this process Senator Wightman has brought this forward on behalf of the Governor and that the administration is also supporting, somewhat, on this compromise. So this might be a piece of legislation that would ask us to give further consideration. So for that, again, I would thank Senator Conrad for the reconsideration motion. And I think it's, as I've said before at this mike, it's time to take a breath and potentially work on this between now and Select. I'm not for sure, but I think that by eliminating it now we may muddy the waters in terms of where that consensus was made between the parties. And with that, I will yield back my time, Mr. President. [LB388]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Ken Haar, you're recognized. [LB388]

SENATOR HAAR: Mr. President and members of the body, I have a couple of questions for Senator Wightman. [LB388]

SENATOR LANGEMEIER: Senator Wightman, would you yield? [LB388]

SENATOR WIGHTMAN: Yes, I will. [LB388]

SENATOR HAAR: I thought, too, that Senator Langemeier made some sense when he talked about \$1 million being such a small amount. Was that discussed as part of the compromise? [LB388]

SENATOR WIGHTMAN: That was discussed as part of the compromise. Actually my understanding is that was offered up by the Department of Economic Development separate from the original compromise and then maybe the compromise got more into the amount whether it was going to be the 25 cents or the 20 cents. So they were both discussed, but that was offered up first without a request, I think, on the part of the affordable housing interest. [LB388]

SENATOR HAAR: Okay. Well, thank you very much. I'm a great believer in compromise, especially if the party is bringing the proponents and the opponents to the table and coming out with a compromise and so I will support the reconsider motion of Senator Conrad, and I'd give the rest of my time to Senator Wightman, if he would like it. [LB388]

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

Floor Debate
March 22, 2011

SENATOR LANGEMEIER: Senator Wightman, 3:50. [LB388]

SENATOR WIGHTMAN: Okay, I probably won't use all that time but I will discuss a little more. I wasn't sure I understood Senator Krist's question with regard to whether it was a dollar amount or a percentage. And I guess if Senator Krist would yield, I'll try to consider his...what his comments were. [LB388]

SENATOR LANGEMEIER: Senator Krist, would you yield? [LB388]

SENATOR KRIST: Yes. The question comes from the actual percentage breakdown in terms of what would be going from the affordable housing, per se, to that commercial industrial, and I was at first in reading this, in the language in the bill, convinced that it was a simple percentage that was going in but that's, as you read it further, it doesn't look like it's a percentage that moves, is that correct? [LB388]

SENATOR WIGHTMAN: Well, it's so many cents out of a \$1.20 that's presently committed to that so it is a percentage. It's 25 cents out of \$1.20 is the compromise. [LB388]

SENATOR KRIST: Yeah, and that was my...I was confusing the percentage with the actual pennies out of the dollar. [LB388]

SENATOR WIGHTMAN: Okay. And I know that we also discussed not only that percentage but the \$1.24 million which is a projection only. That is not...that's what normally that 25 cents would yield on an annual basis. So that is only a projection, of course. [LB388]

SENATOR KRIST: Right. And was I also correct in assuming that the administration, at least the Department of Economic Development, is in favor of the amendment? [LB388]

SENATOR WIGHTMAN: They were agreeable to that figure. That was an interest...or was a compromise that was worked between the affordable housing interest and the Department of Economic Development. [LB388]

SENATOR KRIST: Thank you, Senator Wightman. [LB388]

SENATOR LANGEMEIER: Thank you, Senator Wightman and Senator Haar. Senator Hansen, you're recognized. [LB388]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I want to rise also for the motion to reconsider this. I didn't get a chance to talk earlier but I think Senator Wightman has done his job, he's done the work, he's done the

Floor Debate
March 22, 2011

compromise, and he has an administration now and the Department of Economic Development that have, and the Affordable Housing Trust Fund, have set some parameters now that have been the compromise. It's become the compromise and I think that we should take a little more hard look at that. We're just coming off a four-day weekend and I know that some of us have work to do when we go home and others of us talk to our community leaders while we're home, and some of us do town halls when we're home. Well, I've made two calls to our local Devco Group and they tell me that in my district, and in the whole county, we don't have those sites available. There's no...there's some but there's not any good sites that are available as far as buildings. We do have an industrial park in North Platte. There's other communities that have land set aside. There's some communities that even give housing lots away. Brady is one town that if you want to move to Brady they'll give you a lot. It's great. If you want to do that you're more than welcome to come to my community. What the point is, is that in my district we don't have the housing. We're looking for housing for affordable...that people can afford to buy that is this trust fund and that's what they do. A year ago I learned a lot about Affordable Housing Trust Fund in my district and there's a lot of emphasis on it. There's a lot of political time spent on promoting the Affordable Housing Trust Fund. They buy houses. They rehab them and then they put them back on the market, so we need the money for the housing part of it, the portion of it, and not necessarily for the site selection and development. So I would thank Senator Wightman for making this compromise. I think that we should vote to reconsider and move forward with this compromise as it is. Thank you, Mr. President. [LB388]

SENATOR PRICE PRESIDING

SENATOR PRICE: Thank you, Senator Hansen. Senator Flood, you are recognized. [LB388]

SPEAKER FLOOD: Thank you, Mr. President and members. I'm a big supporter of the green copy of LB388. I'm a big supporter of it because more than affordable housing in some communities in the state, site development is the key to creating jobs that require and put a demand on housing. The tale of two cities, Columbus needs affordable housing. Columbus needs to increase its housing and they're doing a good job of that through groups like NeighborWorks. Norfolk needs to increase its site development and site ready, build ready sites to entice builders or companies to come in and build plants and manufacturing facilities. And I think the Affordable Housing Trust Fund certainly has been a very good tool for Nebraska. I think using it for the purpose Senator Wightman has identified has a lot of merit and has a lot of value because it's the second prong of a two-prong approach to building healthy communities. I am...I voted no on AM649. I'm going to change my vote to yes after visiting with folks out in the lobby. I visited with representatives that are proponents of the Affordable Housing Trust Fund, and I talked to folks that are very much supporters of LB388. They've agreed to sit down, if this amendment is adopted on General File, and talk in good faith about what, if anything,

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

Floor Debate
March 22, 2011

they would be able to agree to on Select File. And what I'm interested in a discussion between now and Select File with those two groups is going somewhere between where AM649 is and somewhere north of AM649 but less or south in where LB388 was. I'm looking for a little bit more. That's my interest. Not that I don't respect the deal that Senator Wightman came to with the opponents to LB388, I just think there's more discussion that can happen. And I'm going to take a chance in good faith that adopting AM649 will allow those discussions to happen and we'll see how productive they are. If they're not productive, we can revisit this on Select File and folks that were party to that agreement will still have AM649 amended into LB388. So I am going to switch my vote, and I'm going to put a lot of stock in good-faith negotiations between the parties between now and Select File. Thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Flood. Senator Burke Harr, you are next in the queue. [LB388]

SENATOR HARR: Thank you, Mr. President. This debate we're having right here is a debate we had on LB387, it's the debate we had on LB389. It seems as though these Governor's bills, bills I've introduced on behalf of the Governor, all have the same problem. They're introduced on behalf of the Department of Economic Development. There's a public hearing, both sides get a chance to talk, and then afterwards in the dark of night, the Department of Economic Development comes through with an amendment. And it's never very well...in my opinion, it hasn't been well explained to me. It's a problem I had on LB387. It's a problem I have here. I originally voted against this amendment and I will vote...I will vote to reconsider because since that has been heard, people have come up and talked to me. I've listened to the debate and I'm hearing things, people coming to me and seeing me in my chair, talking to me, but aren't being said on the floor and I'm not sure why. Maybe I'm not smart enough to pick up on it and I need to be hit over the head. I don't know. But I have a very large problem with, it seems all the bills brought by the Department of Economic Development have been sloppy this year. And it's a real problem I have because I am for economic development and I think it's important for the state that we create jobs, but it has to be well-thought-out. We have all summer to think about it. We have all summer to get along, fall, winter, to talk to the other parties that are involved. And so we can come to a consensus so that when we do have our public hearing, we do have an agreement. With that, I would yield the rest of my time. Thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Harr. Senator Langemeier, you are next in the queue. [LB388]

SENATOR LANGEMEIER: Mr. President and members of the body, I rise in kind of an odd position. I don't want anybody to look at the committee statement with a lot of credit. We tried to move this bill out with LB388 and it was deadlocked. We couldn't move it. We couldn't kill it. Then out of, using Senator Burke Harr's comments, out of the dead of

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

Floor Debate
March 22, 2011

night comes an amendment. And they said, vote it out, and then this amendment will appear and it's a great compromise. Kind of a strange way to do it, but that's kind of what we just heard from the previous speaker. If I thought in committee that AM649 would actually get amended on out here, I probably have voted LB388 out, and we would have been deadlocked the other way. So to speak to Senator Flood's idea, I'm almost ready to say, let's just recommit this back to committee and come up with a compromise and actually vote it out so you have a committee statement that actually reflects the views of those that voted it out, because the committee statement we have now doesn't. Some people voted it out like I did that tried to vote it out on LB388 in its green copy. Some of those 8 votes, or 7, I shouldn't say, Senator Christensen voted no. Some others of those 7 votes were voting out hoping this amendment would come on. So that statement really doesn't reflect the view of the committee. So maybe it should go back to committee and start over. Sloppy might be an understatement on this bill. So I am going to vote to reconsider to bring this back with the hope that we find a new middle ground between the overnight AM649 that came from nowhere and where LB388 is. And so with that, thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Langemeier. Senator Wightman, you are next in the queue and recognized. [LB388]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I understand both sides on this issue. Certainly, there are those who feel that more money needs to go to the site development fund than is going. At the same time it is a compromise that was reached by the two competing interests. I had a very small part in that. They arrived at that between the two of them, the two sides. I think that it is something we can work on between now and Select File. So again I would ask that you vote yes on the motion to reconsider that we pass AM649 for now with the understanding that it will be reworked prior to it coming back on Select File. I thank Senator Flood for his interest in attempting to help a compromise here. I thank Senator Conrad for her withholding her vote the first time around so that she could bring the motion to reconsider, but I do think everyone's interest will be served if we can bring it back after...again consideration of the positions of the two interests that are involved here. Again I think it was a fair compromise. I suppose you can make the argument that it was sloppy on somebody's part but until you know what those competing interests are, sometimes it's hard to address them. So again with that, I would urge your favorable vote on the motion to reconsider. Thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Wightman. Senator Schumacher, you are next in the queue and recognized. [LB388]

SENATOR SCHUMACHER: Thank you, Mr. Chairman and members of the body. I take Senator Krist's comment to heart. You should never stand up here and say you're confused. I'll just say I'm puzzled. We hear about this compromise between the

Floor Debate
March 22, 2011

Affordable Housing Trust Fund and the Department of Economic Development. And I'm thinking to myself, well, trust funds can't compromise, they're just funds. Who administers the trust fund? Where are the trustees? Who is in charge of this boat and that has come before the Legislature with their plea bargain? So I pull up the statutes and it says, well, the Department of Economic Development shall use the Affordable Housing Trust Fund. So it must be the Department of Economic Development compromising with the Department of Economic Development, and asking us to say, okay. And I'm confused. No, I'm puzzled. If it is a good idea to have these site funds, then it should...and we are the ones appropriating the money and passing the legislation, then it should be our idea. And what the Department of Economic Development's right hand does in compromising with its left hand should have no bearing on our decision. And, therefore, I'm still against this notion that either this a good deal at \$3 million, or it's a bad deal at \$3 million, but having the Department of Economic Development compromise with itself, and asking us to approve the compromise, doesn't make a whole lot of sense. Thank you, Mr. Chairman. [LB388]

SENATOR PRICE: Thank you, Senator Schumacher. Seeing no other senators in the queue, Senator Conrad, you are recognized to close on your motion to reconsider. [LB388]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues, for your thoughtful comments, good questions, and careful consideration of this reconsideration motion. I'm hopeful that we will, in fact, be able to continue negotiations and continue work to improve this legislation as people offer, hopefully, a vote in support of this motion, the underlying amendment, and advance the bill from General File to Select File with the understanding that these additional negotiations will occur. I was teasing Senator Wightman after I filed it and I said, this might be the only reconsideration motion I win this session. So I'm happy to have been able to be part of the Wightman express as he moves his legislation through the body, and I'm also hopeful that we'll be able to continue work on this important topic to ensure that we can have a comprehensive solution to the comprehensive issues that exist in our economic development programs and policies. And this is really a critical piece of that work. So thank you Senator Wightman, those in the lobbies on both sides, or all sides of this issue, who continue to work diligently on these topics. And, colleagues, thank you for your careful consideration. Thank you, Mr. President. Oh, can I get a call of the house? Thank you. [LB388]

SENATOR PRICE: Thank you, Senator Conrad. Senator Flood, you're recognized. [LB388]

SPEAKER FLOOD: Point of personal privilege, Mr. President. For the purposes of this reconsideration motion, Mr. Clerk, is it my understanding the first vote will be on...as to whether we reconsider AM649, and then the second vote after discussion on AM649, if

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

Floor Debate
March 22, 2011

successful, would be on the underlying amendment, is that accurate? [LB388]

CLERK: Yes, Mr. Speaker, the first vote is for reconsideration, and if it prevails, then the amendment is pending as if the body never took the first vote. So you would have a second vote opportunity on that assuming the reconsider is successful. [LB388]

SPEAKER FLOOD: Thank you, Mr. Clerk. [LB388]

SENATOR PRICE: Thank you, Speaker Flood. The question is, shall the motion to reconsider...stand by. Excuse me, thank you very much, Senator Conrad. The question before the body is, shall the house go under call? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB388]

CLERK: 42 ayes, 0 nays, Mr. President, to place the house under call. [LB388]

SENATOR PRICE: Thank you. The house is under call. Senators, please record your presence. Of those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Heidemann, please report to the Chamber. All members are present and/or accounted for. The question before the body is, shall the motion to reconsider be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record. [LB388]

CLERK: 35 ayes, 2 nays, Mr. President, on the motion to reconsider. [LB388]

SENATOR PRICE: The motion passes. We now return to discussion on Senator Wightman's amendment, AM649. Member wishing to speak: Senator Langemeier, you are recognized. [LB388]

SENATOR LANGEMEIER: Mr. President and members of the body. I turn my light on just only to get a break between those two votes because a lot of you have never seen this. When we were here with Senator Chambers, we got the opportunity to experience this almost on every vote. And so with that, I want to address AM649 briefly just saying I look forward to a compromise that meets somewhere in the middle between AM649 and LB388, or we'll all be back here again on Select File. So with that, thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Langemeier. Seeing no other senators wishing to speak, Senator Wightman, you are recognized to close on your amendment. [LB388]

SENATOR WIGHTMAN: Thank you, Mr. President. Since I've already closed one time, although with not a lot of support, (laughter) I'll rise again and ask that you do vote in favor of AM649 this time with the understanding that there will be a meeting, probably

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

Floor Debate
March 22, 2011

several meetings, of the competing interest, and certainly the senators who represent the competing interest, and we hope to bring back an amendment that would address a lot of the issues that we've discussed here today. So again I urge your support for AM649. Thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Wightman. The question is, shall the amendment to LB388 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted? Record, Mr. Clerk. [LB388]

CLERK: 34 ayes, 1 nay, Mr. President, on the adoption of Senator Wightman's amendment. [LB388]

SENATOR PRICE: The amendment is adopted. [LB388]

CLERK: I have nothing further on the bill, Mr. President. [LB388]

SENATOR PRICE: Thank you. Raises the call. The call is lifted and now we will return to discussion on LB388. Seeing no other senators wishing to speak, Senator Wightman, you are recognized to close on LB388. [LB388]

SENATOR WIGHTMAN: Well, again, I would make the same point that I did when I addressed the motion to reconsider. We are committed to working with the competing interest, hope we can come back with a compromise that will be agreeable to all. I guess we have to wait until we have those discussions to know what that's going to be. So I would urge your favorable vote on LB388 for that reason. Thank you, Mr. President. [LB388]

SENATOR PRICE: Thank you, Senator Wightman. The question is the advancement of LB388 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted? Record, Mr. Clerk. [LB388]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB388. [LB388]

SENATOR PRICE: The bill advances. Mr. Clerk, we will proceed on to the next item of General File. [LB388]

CLERK: Mr. President, LB388A, a bill by Senator Wightman. It appropriates funds to implement LB388. I do have an amendment to the bill by Senator Wightman. (AM885, Legislative Journal pages 916-917.) [LB388A LB388]

SENATOR PRICE: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB388A. [LB388A]

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

Floor Debate
March 22, 2011

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. Obviously, LB388A will probably change between now and Select File, if there's a compromise reached. But I would ask that you advance LB388A with the understanding that it would be amended to address any compromise that is reached between now and Select File. [LB388A]

SENATOR PRICE: Thank you, Senator Wightman. [LB388A]

CLERK: Senator, I have AM885 as an amendment to the A bill. [LB388A]

SENATOR WIGHTMAN: And that was to address...thank you. That was to address the amendment, as I understand. LB388A was...the bill was originally introduced, and AM885 was to address the amendment. So since the amendment has tentatively passed at least, I would ask your support for AM885 as well so that we can take into account any changes that will be made as a result of the discussions between now and Select File. Thank you. [LB388A]

SENATOR PRICE: Thank you, Senator Wightman. Members, you've heard the opening on the amendment. Seeing no senators wishing to discuss the matter, Senator Wightman, you are recognized to close. Senator Wightman closes. The question is the advancement of the amendment. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB388A]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB388A]

SENATOR PRICE: The amendment is passed. [LB388A]

CLERK: I have nothing further on the A bill, Mr. President. [LB388A]

SENATOR PRICE: Thank you, Mr. Clerk. Returning to discussion, seeing no members wishing to speak on the matter, Senator Wightman, you are recognized to close on your LB388A. [LB388A]

SENATOR WIGHTMAN: Thank you, Mr. President and I'll be very brief. You'll be voting on LB388A, as amended, to take into account the changes that were proposed by the amendment initially. So again this A bill is going to change before we address it on Select File, but I would ask for your favorable vote at this time. Thank you, Mr. President. [LB388A]

SENATOR PRICE: Thank you, Senator Wightman. The question is the advancement of LB388A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB388A]

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

Floor Debate
March 22, 2011

CLERK: 38 ayes, 0 nays on the advancement of LB388A. [LB388A]

SENATOR PRICE: The bill advances. Mr. Clerk. [LB388A]

CLERK: Mr. President, before we proceed to the next if I might read some items. Amendment: Senator Flood to LB297; Senator Lathrop to LB260 and to LB479. Urban Affairs reports LB417 to General File. That's signed by Senator McGill as Chair. Senator Burke Harr offers LB90A. (Read LB90A by title for the first time.) (Legislative Journal pages 917-920.) [LB297 LB260 LB479 LB417 LB90A]

Mr. President, the next bill is LB606 by Senator Avery. (Read title.) Introduced on January 19; referred to the Government Committee; advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB606]

SENATOR PRICE: Thank you, Mr. Clerk. Senator Avery, you are recognized to open on LB606. [LB606]

SENATOR AVERY: Thank you, Mr. President, colleagues. Last year, many of you remember, thousands of dollars were spent by a political group in Nebraska on political ads against a variety of candidates, some of them candidates for this Legislature. These ads were specific to certain candidates and were directed to the voters in those candidates districts. After the election this political group did not file any reports with the Accountability and Disclosure Commission claiming that its ads were only factual and did not support or oppose any candidate. They argued that they did not need to file any reports on how much money they spent or who contributed to their campaign because they were not involved in campaigning. They deliberately and specifically decided to hide in the murky shadows of secrecy. That is not how we should do business in this state, and that is why I have brought LB606. It is meant to address this very situation where an entity claims it does not have to file any reports because the ads are factual by creating a new type of communication under the accountability and disclosure statutes that is called electioneering communication. So LB606 will create a new type of communication under the accountability and disclosure statutes called electioneering communication. It is defined in the bill to mean any communication that refers to a clearly identified candidate is publicly distributed in the 30 days before an election, and is directed to the electorate of the office sought by the clearly identified candidate. It does...this definition does not include a contribution or expenditure as currently defined under the Accountability and Disclosure Act. It does not include a communication by a media. It does not include a candidate debate, nor a communication by membership organization to the organization's members. LB606 requires any person who makes an electioneering communication in the amount of more than \$250 to file a report of the electioneering communication within 10 days with the Accountability and Disclosure Commission. Could I have a gavel, Mr. President? [LB606]

Floor Debate
March 22, 2011

SENATOR PRICE: (Gavel) [LB606]

SENATOR AVERY: These reporting requirements are similar for those who currently are made...those groups that currently make independent expenditures. So the reporting requirements are essentially the same. The report on electioneering communication will include information on the date, the amount spent, and a brief description of the electioneering communication. Also included in the report will be the name and the address of the person filing the report and the name and address of each person who contributed more than \$250 to the electioneering communication. Late filing fees will apply to any person who doesn't file this report on time. These filing fees are consistent with current law. Similarly, if a corporation, a labor organization, or business association makes an electioneering communication with a value of more than \$250, it will file a report with the commission including the nature, date, and value of the electioneering communication and the name of the candidate identified in the electioneering communication. In 2003 the United States Supreme Court upheld provisions in the McCain-Feingold campaign finance law, relating to electioneering communications. In the federal law, that also is called the Bipartisan Campaign Reform Act, electioneering communications are defined as media ads that clearly identify a candidate which are aired 60 days before a general election or 30 days before a primary election and can be received by 50,000 people in the state or the district. The federal law prohibits corporations and unions from airing these ads. Political parties are allowed to pay for them with what is called hard money. After this Supreme Court ruling, many states decided to implement election communication laws similar to the federal law. I was able to identify at least ten states that have done so. Remember, LB606 does not ban electioneering communication. It only requires these communications to be reported. You may also have heard about the recent U.S. Supreme Court case Citizens United v. FEC that allows corporations in labor organizations to make independent expenditures and to fund electioneering communications. The ruling in that case did not affect the reporting requirements for electioneering communications. They are still constitutional. Therefore, I propose that the provisions in LB606 are narrowly tailored to meet a compelling state interest and that they would be upheld as constitutional based on recent rulings of the U.S. Supreme Court. You might ask why is this important. It is important because it will increase transparency in our political process. Transparency gives citizens access to information, it facilitates understanding of the political process and the decisions that we make, and transparency contributes significantly to accountability and I would submit to you that accountability is the bedrock of a democratic society. Accountability builds confidence, it builds confidence among citizens that they can engage in informed participation. It builds confidence in our institutions and builds confidence in our political procedures. Citizens have to have confidence in the appropriateness of the political process and when they have that confidence then they will view the institutions and the procedures of our democracy as legitimate and they will render support for that process and for those institutions, and without that we are in trouble. So we should always be aware of the groups that will try

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

Floor Debate
March 22, 2011

to circumvent our laws and try to find loopholes so that they can hide in secrecy what they don't want to be revealed in public. This is, by the way, anonymous money and anonymous electioneering. It undermines confidence and it's something we should end, and I would urge you to advance LB606 to Select File. Thank you, Mr. President.
[LB606]

SENATOR PRICE: Thank you, Senator Avery. Mr. Clerk. [LB606]

CLERK: Mr. President, Senator Lautenbaugh would move to amend with AM895. (Legislative Journal page 921.) [LB606]

SENATOR PRICE: Senator Lautenbaugh, you are recognized to open up on your amendment of AM895. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And careful observers of the Legislature may realize this is not our first go-around on this topic. My amendment does a very simple thing. It is a partial repeal of the CFLA. What it does is it says that you can raise up to your limit, whatever the limit is applying to your race, regardless of the source. It takes away the 50 percent barrier. And let me explain why I'm bringing this. I stood and argued this point a couple times on this floor over the last couple years and now here we are today. We're shocked to find there's an independent expenditure group that is even worse than the other independent expenditure groups because the ineffective rules that govern the independent expenditure groups don't apply to this even worse independent expenditure group. What a horrible state of affairs we find ourselves in where we have an ineffective, ridiculous law that fails to regulate some type of mailings, leaving aside the fact that it doesn't do very much regarding the ones that it does already cover. And this is not a new argument that we've had before, although it sets my teeth on edge when we stand here and talk about how transparency is important and these groups are wrong and these mailings are wrong and, by gosh, we've got to do something. Over the past two years when this has been debated, well, you know, Senator Lautenbaugh, repealing the CFLA is not the solution; that's not the solution; we'll come up with a better solution for you. Well, I'm still here, they're still there out there sending their mailings, and what is the solution? We're going to add some more people to the ambit of the ineffective law. So now, candidates, rest assured if you're attacked by a group that is sending out educational mailings in the last week of your campaign, some time after the election you may find out who they are if this bill, the underlying bill, passes, so take comfort in that. After the fact, when everything is over and it's too late to do anything, by gosh, you might find out how much money they raised and who contributed to them, and I hope that helps. To quote Sherman and Mr. Peabody, once you find that out, maybe we can get in the WABAC machine and go back to before the election and, by gosh, you can do something about it. What are we talking about here? We found a group that skirted our already ineffective law and, by gosh, we're going to spring into action at long last and really address this

Floor Debate
March 22, 2011

issue. What goes on in our races now under the groups that are covered, the independent expenditure groups? I can tell you what I experienced this last fall. The last week of my campaign a committee sprung into action called the Leadership Committee and they spent \$30,000 in the last week of my campaign, sent out four or five mailings against me, all of which was allowed under our law. Now here's the kicker. Here's where it gets difficult. Yes, it's allowed under our law because they have a First Amendment right to do that. They may be vile and they may be despicable, but as we've seen in recent Supreme Court cases sometimes the vile and despicable are protected just as everyone else under the First Amendment. So what have I proposed to do a number of times and again this year in my priority bill? Take off the gloves. Take off the limits. We have a ridiculous Rube Goldberg mechanism called the CFLA that only hampers us, the candidates. It does not hamper the independent expenditure groups, and there's a reason for that--because we can't hamper the independent expenditure groups because they have a First Amendment right. And why is this so hard and why am I having to go at this the roundabout way instead of just outlawing independent expenditure groups? Because we can't outlaw independent expenditure groups. And why is this so hard and why is this convoluted and why do we keep fighting about it? Because, ladies and gentlemen, we have intruded into an area into which we have no business intruding. We should never, ever have passed the original CFLA. And now that we have it, some are afraid to get rid of it. And we heard a lot of distracting and, frankly, not illuminating testimony in the hearing on my bill and we were told, well, spending by candidates went down over the few years after we implemented the CFLA. But curiously, no one came and said and this is what happened with spending by independent expenditure groups. What we have done is forced the money underground. And we delude ourselves in this body sometimes and I brought this up in committee hearing. We act like we can create markets, we act like we can change behavior, we act like we can change a pool of money available for campaigns just by waving our wand here and passing a bill, and we're going to change things. I had a bill a couple years ago about cigar bars. The restrictions in that bill to qualify for a cigar bar were modeled after what existed in the market before we acted with our smoking ban and we were told, well, if you do this there's going to be 100 cigar bars. And we said, no, you can't create a market. You can destroy one, as we were getting ready to do, but we can't create demand beyond what existed before we intervened. And I would say reality now pretty much mirrors reality before the smoking ban passed regarding the existence of cigar bars. Similarly, people have a certain amount of money they're going to spend on a campaign, and when I say people I mean people in the broadest sense. Nonindividual entities have money they're going to spend on a campaign. And we can pat ourselves on the back and say, well, we did something, we've said, you unions, you corporations, you whatever that aren't people, you can't give that money directly to candidates above a certain amount. Well, good job, we've cleaned it up, and I think the last few years have demonstrated we've entered kind of a golden age of campaigning, where the money has gone and we're all getting along and the campaigns are noble endeavors where no one ever lies and no one ever stabs you in the back and no one ever sends a false mailing at the eleventh

Floor Debate
March 22, 2011

hour. Mission accomplished, unfurl the banner and let's go home. That's not what has happened here. Spending on elections has not gone down, just the spending that you can tie to an individual candidate may have leveled off or decreased. But overall I would submit to you the spending has increased and it has increased in the most insidious way, the most insidious way. Why are we talking about this now on this bill? Because I threw up an amendment here that said under the existing law, under the CFLA, you can take 50 percent of your funds from nonindividuals. My amendment moves it to 100 percent. And you know what, I'm sort of fine with that because what that means is you could fund your whole campaign with nonindividuals if you want to but we still have to report it and people are still going to know about it and the voters are going to decide whether or not they want to elect someone who doesn't even have individuals contributing to his campaign. But the reality we create now is if these nonindividuals and independent expenditure groups attack you at the eleventh hour and if you've already been maxed out and already spent that money because you had a tough campaign, you're forced to go try to raise it from individuals, which is much tougher to do. We are tying our own hands. If my amendment passes, well, the need for my priority bill may go by the wayside. What it would do is for a nonabiding candidate you can raise as much as you want from individuals, up to the spending limit, which is still obscene and might be the subject of another amendment. You can raise as much as you want up to that limit regardless of the source. And I don't bring this amendment lightly. And I would hope some of us still have some humility within ourselves that we could ask yourselves who are we to say this is the amount that should be spent on a legislative race and no more, and we should increase it with inflation, which is what our current statute does, I believe. Well,... [LB606]

SENATOR PRICE: One minute. [LB606]

SENATOR LAUTENBAUGH: ...(laugh) we increase it with inflation I believe. Why is that the measure? What if we have a particularly hot issue come up or a crisis in the state and we really have a message we need to get out? Should it be pegged to inflation? What if people are more passionate about something in 2010 than 2008? What does the rate of inflation have to do with how much you should be able to spend and how much you should be able to raise from nonindividuals? There's a point at which we have to realize that there isn't an answer for everything and when we passed the CFLA we, I'm sure, none of us were here, I don't believe, but those who were I'm sure patted themselves on the back; said, oh, this is great, let the era of good government begin. Well, again, it has not come about. You cannot force money out of politics. [LB606]

SENATOR PRICE: Time. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB606]

SENATOR PRICE: Thank you, Senator Lautenbaugh. You are next in the queue and

Floor Debate
March 22, 2011

recognized. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. You cannot accomplish what the CFLA sets out to accomplish, at least what its stated purpose was, which two years ago was said to take money out of politics, after the recent hearing it was, well, to take...limit the amount that candidates spend on campaigns. Well, fine, since it does limit what you can spend on a campaign from nonindividuals and if you abide it limits the total you can spend, it surely accomplished that. Why is that a goal worthy of pursuing? Why is that a goal that we as a Legislature should act upon? If I was brand new to the Panhandle and I wanted to run a race out there, who are you to tell me that I can't spend \$200,000 to get elected and who are you to say, fine if you do but we're going to give money to the guy on the other side to help him out? And who are we to say, and by gosh, you better not get that money from Union Pacific beyond 50 percent? Why not 75 percent? Why not 100 percent? Why not 30 percent? Who are we to insinuate ourselves into this process, as we did with the passage of the CFLA a few years ago, and substitute our judgment for the voters, for the candidates, for ourselves, because we're bound by it too? Who are we to step into that void and substitute that judgment? Could I get a gavel, Mr. Chair, Mr. President? [LB606]

SENATOR PRICE: (Gavel) [LB606]

SENATOR LAUTENBAUGH: Again, I don't bring this amendment lightly and I wouldn't come back to the well on this issue three times if I wasn't deadly serious about it. And my priority bill will eventually come up. I filed it I think the first week of the session, LB142, and, by gosh, the last day of hearings we had a committee hearing on it so at some point it will come up perhaps. But in the meantime, since this one had a happier history, despite being filed much later and having a higher number, we can talk about this one now and talk about the particulars of my bill and respect the committee process and comply with the rules. But I don't...I was a little lighthearted there and I didn't mean to be, but I want you to think about this and we'll get a chance to keep on talking about this tomorrow, I have a feeling. We can't answer every question. We can't right every wrong. And we should not substitute our judgment without good reason and compelling reason for our fellow citizens, be they corporate or individual or labor or otherwise. If the steamfitters from Ohio wanted to give me 50 grand, by God, they should be able to give me 50 grand. They don't, (laughter) but I'm speaking in hypotheticals here. And doesn't it just go against the grain, doesn't it just grate on you that we...that some other Legislature made that call for us and some other Legislature made that call for our contributors? And we can sit here and look at how our campaigns go and I'm not the only one who has a beef with how things played out as far as the mailings that were received, far, far from it. Doesn't it grate on you that we're bound by this system? And the best thing anyone can say about it was, well, it limited the amount that abiding candidates spend on their campaigns. Well, yeah, if you put a limit in there saying you

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

Floor Debate
March 22, 2011

can't spend more than this if you abide, you have accomplished that goal. But what is the larger purpose? What have we accomplished other than a recordkeeping nightmare and, frankly, what I believe to be a complete and total violation of personal freedoms, and again I mean "person" in the broadest possible sense. I hope you'll look favorably upon this. I hope you'll think hard on this. And like I said, we'll probably have a chance to continue discussing this tomorrow morning, because I'm serious about this. [LB606 LB142]

SENATOR PRICE: One minute. [LB606]

SENATOR LAUTENBAUGH: This is a system that needs to go. Thank you, Mr. President. [LB606]

SENATOR PRICE: Thank you, Senator Lautenbaugh. Senator Karpisek, you are next and recognized. [LB606]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Avery is after a problem here and trying to get things straightened out and I support him on that. Senator Lautenbaugh feels that there's a different way to go on it and he's got some ideas and I like to listen to his ideas too. So I think when it comes down to it, we're all trying to get to the same place but very much disagree on how to get there. It is very interesting sitting in Government for the past five years and hearing both ways to go about these sort of things because we've all been through the campaigns except maybe a couple of us and it can really get to be very tough and maddening. People say things that aren't true, you can't find out who did it. Sometimes you do know who did it, a lot of good it does you. I've had bills, too, that would limit who can give money. I don't think that people that are sitting in a state office should be able to form a PAC and give money. That's another fight for a different day. But these people that hide in the weeds, come out and say things that are not true but then just say, oh, well, we're just...we're just being...putting facts out there, come on, step up, that's ridiculous. I can't even imagine anybody trying to get away with something like that. I think that some of these people are involved enough, smart enough, and then they try to say things like that; that, oh, we're just putting out facts; it may be very one-sided but we're not going to...we're not saying to vote against that person even though we say they've raised taxes every time they vote. It is a problem. We all know that. I always hear how terrible the lobbyists are from people who aren't around here. I think it's worse when someone from out of state that has absolutely nothing to do with what goes on in Nebraska is spending tens of thousands of dollars on elections here that they don't know a darn thing about. Where is this coming from and why? So I will listen to the debate here. And I know that there's going to be disagreement, but I hope that in the end we can chase some of this out because it's not good for Nebraska. This is not Nebraska politics, as Senator Avery said. This is not how Nebraska works to have somebody from outside coming in, spending that kind of money and hiding in the bushes. Thank you, Mr.

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

Floor Debate
March 22, 2011

President. [LB606]

SENATOR PRICE: Thank you, Senator Karpisek. Senator Avery, you are next in the queue and recognized. [LB606]

SENATOR AVERY: Thank you, Mr. President. I guess it's no surprise that I'm going to oppose this amendment, so welcome back to the Avery-Lautenbaugh show. I'm willing to go at it as long as he thinks we need to. He wants to unleash special interest money in elections. This amendment would do that. If you think that's good policy then you ought to support this amendment. But you ought to be thinking about what is the public purpose of this. What public purpose does it serve? Does it improve transparency? Does it improve the process? Does it create more cynicism on the outside about the way we do business? I don't want my legacy in this Legislature to be defined by that. What I'm trying to do with LB606 is simply contribute to more transparency. We need to know who funds these groups. We need to know what they're spending the money on it, what they're spending money on, and how much they're spending. It doesn't stop it from happening. They have a constitutional right to be involved in campaigns. Courts have ruled on that. But we have a responsibility. We have a responsibility when we see a loophole in our own law to close that loophole and to hold these people accountable, because if we don't, cynicism will increase in this state, people will laugh at this body for not having the fortitude to stand up and do what is right. And unleashing special interest money in our elections, notice that this amendment addresses only us, do you think that's going to inspire confidence? Do you think that the voters are going to be more confident in the way we do business in this body if we say, well, we're going to take unlimited amounts of special interest money and we're going to let special interests fund all of our campaigns if we want to and completely forget about individual contributions? Senator Lautenbaugh is right, raising the \$25 and \$50 checks is hard work. We've all done it. It's much easier to sit back and take those \$2,500 checks from special interests. You want to take the cap off that? You want to go back to your district and say, guess what I did yesterday, aren't you proud of me, because I just said it's okay for us to take as much special interest money as we can put together? I don't want to do that and I'm going to oppose this amendment because it's a malicious amendment. It's not designed to serve a public purpose. And it does not fix the problem that LB606 is trying to address and it does not fix the problem that Senator Lautenbaugh has identified. He's right, but this doesn't fix it. I think that we have to be able to look at ourselves in the mirror every morning and say I, today, tried to do the best I can to serve the public good of this state, not my own private good. Let me tell you something, folks. Filing those forms is a pain, I know. It's not fun, it's inconvenient, but it serves a public purpose and we should not try to make our lives easier at the expense of the public good. That's what this amendment does. Thank you. [LB606]

SENATOR LANGEMEIER PRESIDING

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Floor Debate
March 22, 2011

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Burke Harr, you're recognized. [LB606]

SENATOR HARR: Thank you, Mr. President. AM895 and Senator Lautenbaugh's defense of AM895 was a defense that only Coach Tressel himself could enjoy (laughter). It didn't address the real issue. It didn't go at what LB606 is trying to do. LB606 is a good bill. It's not trying to take money out of politics. We can't do it. I'm not sure we'd want to even if we could. But what it does do is it makes people accountable and it makes interest groups accountable for what they say. I had seven mailings go out against me; six of them contained absolute nontruths and it was offensive. To this day do I know who sent it? I know the organization and that's it. I don't know who the people are; I don't know who funds them. But I know one thing. If I was sending, giving money to someone, I'd want to make sure that what was being sent out was truthful and honest or I wouldn't want my name attached to that group. This allows people to give money and then hide behind it, and that's wrong. We can't go the WABAC machine. We can't go look and see what happened. But what we can do is hold those people accountable. And I'm not saying we vote for or against their bill based on what they gave, but at least we know is this person credible, are they not credible, is this organization credible. Well, this person gives to an organization that is noncredible, therefore, I can judge this person and say, you know what they're telling me, I don't know if I can give it as much truth. It's about knowledge. It's letting people make decisions and letting all the truth out there. Senator Lautenbaugh talked about...well, his amendment raised it from 50 percent to 100 percent so if there's an attack that comes in the last second, you have the money. Well, I can tell you what's going to happen. Pretty soon people are going to say 100 percent is not enough, 150 percent is not enough, and so let's just get rid of the limit altogether; you can take as much corporate money as you want. Well, that's not what we want to do. Here in Nebraska I think we can be proud of the fact that we are a lighthouse state. We set the example. We say we're citizen legislators. We're looking out for the best interests of the citizens. So why do we need to take all this corporate money? Let's limit it. I'm against this amendment. I see what he's trying to do. He's trying to change the debate away from what LB606 is really trying to do and that is to bring accountability to individuals who want to attack other individuals. So thank you very much. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Harr. Mr. Clerk, items for the record? [LB606]

CLERK: I do, Mr. President. Thank you. Senator Price would like to add his name to LB298, Senator Nordquist to LB152, Senator Lautenbaugh to LB152. (Legislative Journal page 921.) [LB298 LB152]

And I do have a priority motion. Senator Harms would move to adjourn the body until Wednesday morning, March 23, at 9:00 a.m.

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. You have heard the motion to adjourn until tomorrow. All those in favor say aye. All those opposed say nay. We are adjourned.