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Floor Debate  
April 14, 2011

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[LB20 LB27 LB31 LB32 LB34 LB41 LB45 LB84 LB90A LB90 LB95 LB100 LB105 LB176  
LB177 LB207 LB218 LB230 LB237 LB259 LB260 LB279 LB283 LB329 LB342 LB388A  
LB388 LB465 LB468 LB479 LB509 LB525A LB546 LB563 LB600 LB600A LB606  
LB621 LB648 LR149 LR150 LR151 LR152 LR153 LR154]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen and welcome to the George W. Norris Legislative Chamber for this the sixty-fourth day of the One Hundred Second Legislature, First Session. Our chaplain today is Pastor Ernie Waltke from Our Savior Lutheran Church at Wymore, Nebraska, Senator Wallman's district. Will you all please rise.

PASTOR WALTKE: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the sixty-fourth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. (Gavel)

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: I do, Mr. President, thank you. Communication from the Governor to the Clerk. (Read re: LB20, LB27, LB31, LB32, LB34, LB41, LB45, LB90, LB90A, LB100, LB105, LB207, LB218, LB230, LB237, LB259, LB260, LB329, LB342, LB465, LB468, LB509, LB546, LB563, and LB621) And I have the lobby report as required by statute, Mr. President. That's all that I have. (Legislative Journal pages 1199-1200.) [LB20 LB27 LB31 LB32 LB34 LB41 LB45 LB90 LB90A LB100 LB105 LB207 LB218 LB230 LB237 LB259 LB260 LB329 LB342 LB465 LB468 LB509 LB546 LB563 LB621]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on today's agenda, Select File, LB388. [LB388]

CLERK: LB388, Mr. President, the first item, Enrollment and Review amendments. (ER59, Legislative Journal page 957.) [LB388]

Floor Debate  
April 14, 2011

---

SENATOR LANGEMEIER: Not seeing Senator Burke Harr, Senator Flood, would you make...for a motion? [LB388]

SPEAKER FLOOD: Mr. President, I move the E&R amendments to LB388. [LB388]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. Mr. Clerk. [LB388]

CLERK: Mr. President, Senator Flood would move to amend with AM1136. (Legislative Journal page 1134.) [LB388]

SENATOR LANGEMEIER: Senator Flood, you're recognized to open on AM1136. [LB388]

SPEAKER FLOOD: Thank you, Mr. President and good morning, members. As you recall when we last left LB388 on General File, there was some concern about adopting the compromise amendment that some members of the committee had worked on with affordable housing folks and the Department of Economic Development. And we agreed to reconsider Senator Conrad's motion. The vote last taken we ended up adopting the compromise amendment. This is the Site Building and Development Fund that helps communities that have a plant or, you know, a structure, or a facility of some sort that needs to be torn down to make the ground ready for a brand new job opportunity for the community and...or factory. This amendment is the compromise that we worked on between General and Select, and people and representatives from the affordable housing groups, Department of Economic Development all got together and everyone agrees on this amendment. It creates the Industrial Recovery Fund, which we funded by recaptured funds, funds that were allocated out of the Affordable Housing Trust Fund to a recipient but were not utilized and, therefore, are no longer obligated to the project. It's capped at a million bucks. Here's how it works. This amendment should finalize this bill. Basically, we give out between \$5 million and \$8 million a year in Affordable Housing Trust Fund money. We give it to CHDOs or housing authorities in different communities in the state. Let's say we give money to...let's say, the Omaha Housing Authority to build affordable homes in Omaha. We give them \$780,000 for this planned development. Omaha Housing Authority says, okay, during the time of the grant we were only able to use \$500,000 of our \$780,000. So, therefore, state of Nebraska we're returning \$280,000. Every year between \$5 million and \$8 million is handed out to the Affordable Housing Trust Fund. Approximately 10 percent of that, traditionally, has been recaptured by the state because the housing authorities weren't able to complete everything that was part of the grant inside the project. And what this amendment says is that in addition to the compromise on Select...on General File, we're going to take that 10 percent recapture up to a million dollars and we're going to put it in a special fund. And here's how you use the fund. I know, Senator Wallman's district, Beatrice, has lost

Floor Debate  
April 14, 2011

---

a factory in the last couple of years. Okay. There's a Vice-Grip factory also, is that right, Senator Wallman? Okay. So that factory, let's say they decide to leave Beatrice, downsizing, whatever, and suddenly hundreds of people are out of jobs. And I don't know anything about the facility in Beatrice but let's say that the community would benefit from having a brand new facility or bare ground so that a company could come in and build using all the amenities. The site...the Industrial Recovery Fund would be administered by DED and the language is in (2) of page 9. It says, the department may provide assistance from the fund to a political subdivision, the city, impacted by a sudden and significant private sector entity closure or downsizing that will have a significant impact on the community. The assistance shall be used to mitigate the economic impact of the closure or downsizing by making necessary improvements to the buildings and infrastructure, or both, related to the assets of the private sector entity. Real life situation. February 16, 2006, I get a call about 5:00 that day and they say, Tyson...this is somebody from Tyson Foods, they say, we're going to be closing the Norfolk plant the next day. Twelve hundred people are out of work by 9:00 a.m. the next morning. We've got a plant that was built in the '60s. It sits on ground that's excellent for economic development. It's got great water, great sewer, great natural gas, but you don't know where to turn. You just lost 1,200 jobs in your community. And instead of sulking or crying, you want to figure out a way to take the next step forward for your community, and you've got this dilapidated facility. And I'm calling it what it is. And this fund, administered by DED, would allow a community that finds itself in that situation to say, hey, can we do something with the building? We want to be positive about this. We want to be proactive. We want to bring somebody in to create jobs for the community. These things happen in Hastings. They happen in Omaha. They happen in Lincoln. They happen in Beatrice. They happen in Scottsbluff. They happen in small towns. They happen, you know, all over the state of Nebraska. And this emergency fund gives us the ability as a Legislature to grant DED some authority to step in and do something. It's capped at \$1 million. And some may say, why Affordable Housing Trust Fund money? And the reason I say that is, when this happens in your community, you don't need affordable housing, you need jobs, and you need people to live in those homes. And so I think this is reasonable. It's within the scope of what we're trying to accomplish. And I think for some community down the road, it's going to be a godsend. And the fund will retool itself as it goes. And whoever that state senator is from whatever part of Nebraska that goes through this will be able to sit down with local leaders and say, let's get ahold of DED and do everything we can to be proactive and make this...because here's something else. When that happens, you have something a lot of communities don't have in the state. You've got an immediate work force ready for something else. You've got 1,200 people in my case that were...some skilled, some unskilled laborers that were ready to stay and wanted to stay in Norfolk. You need that bridge to keep the community viable. And I know that Beatrice is doing well. I know Norfolk has rebounded very well, but this is another opportunity for us, I think, to recognize our role in maintaining healthy job opportunities across the state. And with that, I will represent, everything's been agreed to. If you have questions, I'll be happy to answer them. The

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

Floor Debate  
April 14, 2011

---

affordable housing groups are okay with this, and I appreciate all of their work. And with that, I would hope that you would find it in your heart to vote for AM1136. Thank you. [LB388]

SENATOR LANGEMEIER: Thank you, Senator Flood. (Visitors introduced.) You have heard the opening on AM1136 offered to LB388. The floor is now open for discussion. Those wishing to speak, we have Senator Harms, and you're recognized. [LB388]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Wightman has asked that...me to act as his representative since he's not here today to process this priority bill, LB388. I'm really very excited about what's taking place here, and I would urge you to support the amendment, AM1136 and LB388. It's a great opportunity for us to move this bill forward. It does some wonderful things for us. It adds an additional \$1 million to this particular emergency fund for industrial buildings and infrastructures. It creates an Industrial Recovery Fund, which I think we need very badly. And I think that Senator Flood has done an excellent job in regard to this, and quite frankly, on behalf of Senator Wightman, I wish to thank Senator...Speaker Flood and the interested parties for just coming to the table and resolving this issue. I think it's extremely important that we resolve this particular issue. And so when you look at where we are with this particular bill, this is a great bill for us. It covers every phase and every category that communities run into. In my own community we've had companies leave and leave us with dilapidated buildings and infrastructure that was not appropriate, and we couldn't fix them. We didn't have the resources, did not have the money to be able to do this. And when you lose, like Senator Flood indicated, 1,200 people, that's a real loss for a community. That's just a tragedy for a community. That's a crisis for a community. And so, I think, when you look at where we are with LB388, and what's been done and the compromises that have been put together, this is a really great way for us to go. The demand in our communities, and the interest in our communities of making sure that we have all of the right components for economic development, is really critical for us. The need for this bill to become a law is very important. We have to be more competitive with our surrounding states. If you just put a...if you look at Topeka, Kansas, for example, and put a 100-mile-an-hour radius around Topeka, Kansas, you would find that they have over 30 shovel-ready facilities available, or land available with all the infrastructure. If you did the same thing and put the whole circle around the great state of Nebraska, you couldn't fine 30. That's the problem. And this bill and this amendment makes this possible for us. I believe it will move us forward. It will get us in the long-range planning appropriately. It will address the issues that I think we have, particularly in some of these smaller communities. They just can't do this. They have to have a small company that would like to come in. So I would urge you to support AM1136 and LB388. I thank you, Mr. President. [LB388]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Pahls, you're recognized. [LB388]

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

Floor Debate  
April 14, 2011

---

SENATOR PAHLS: Good morning, Mr. President and members of the body. This bill came in front of the Banking, Commerce and Insurance Committee, and this amendment does appear to be in a line with the thinking that did occur during that discussion, so I appreciate Senator Flood bringing it forth. Thank you. [LB388]

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

SENATOR WALLMAN: Good morning, Mr. President and members of the body. I, too, appreciate this amendment, plus the bill. As some of the communities in my area like DeWitt, Beatrice, if you experience...or a packing plant closes like Senator Flood said, it is devastating to a community, and also the city councils and the county boards. And I think this is a lifeline somewhat. And as we drive through the state of Iowa we see all these little manufacturing plants through the smallest communities and towns. Their economic development was ahead of ours by quite a ways. And so whatever we can do to jump-start things in Nebraska for Nebraskans, jobs in here, there, let's. I think this is good. Please vote green. Thank you, Mr. President. [LB388]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Seeing no other lights on, Senator Flood, you're recognized to close. Senator Flood waives closing. The question before the body is, shall AM1136 be adopted to LB388? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB388]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of Senator Flood's amendment. [LB388]

SENATOR LANGEMEIER: AM1136 is adopted. Mr. Clerk. [LB388]

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

SENATOR LANGEMEIER: Senator Burke Harr for a motion. [LB388]

SENATOR HARR: Thank you, Mr. President. I move that LB388 be advanced to E&R for engrossing. [LB388]

SENATOR LANGEMEIER: Thank you. You've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB388 does advance. Mr. Clerk, LB388A. [LB388 LB388A]

CLERK: LB388A, no E&Rs. Senator Harms would move to amend with AM1196. (Legislative Journal page 1195.) [LB388A]

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

Floor Debate  
April 14, 2011

---

SENATOR LANGEMEIER: Senator Harms, you're recognized to open on AM1196. [LB388A]

SENATOR HARMS: Thank you, Mr. President. This is really just a technical amendment that we have here. And one of the things that we found is that in order for us to handle AM1196, it's necessary to provide the authority for the Department of Economic Development to spend the cash funds from the Industrial Recovery Fund created by AM1136 that was just adopted and amended into LB388. An additional \$275,000 cash fund spending authority is granted to the Department of Economic Development for the purpose in addition to other funds provided in LB388A. The department anticipates the recapture of the unspent funds from approval of affordable housing proposals should be at least...would allow us to address this particular issue. And what this really does for us, it just creates a fund. To be able to spend this money up to this point we would not be able to spend the dollars if the money came in and this just simply makes that adjustment. It's a technical adjustment. I'd urge you support it. Thank you, Mr. President. [LB388A]

SENATOR LANGEMEIER: Thank you, Senator Harms. You've heard the opening on AM1196. The floor is now open for discussion. Seeing no lights on, Senator Harms, you're recognized to close. Senator Harms waives closing. The question before the body is, shall AM1196 be adopted to LB388A? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB388A]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Harms's amendment. [LB388A]

SENATOR LANGEMEIER: AM1196 is adopted. [LB388A]

CLERK: Nothing further on the bill, Mr. President. [LB388A]

SENATOR LANGEMEIER: Senator Harr for a motion. [LB388A]

SENATOR HARR: Thank you, Mr. President. I move that LB388A be advanced to E&R for engrossing. [LB388A]

SENATOR LANGEMEIER: Thank you. You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB388A does advance. Mr. Clerk, LB606. [LB388A LB606]

CLERK: LB606, Mr. President, no Enrollment and Review. Senator Krist would move to amend with AM1032. (Legislative Journal page 1178.) [LB606]

SENATOR LANGEMEIER: Senator Krist, you're recognized to open on AM1032.

Floor Debate  
April 14, 2011

---

[LB606]

SENATOR KRIST: Thank you, Mr. President and colleagues. Having given some thought to this between General and now, I feel that there's a point that needs to be made and a discussion that we need to have. LB606 lists four exemptions for communications to not be considered electioneering communications and, thus, not subject to the NADC reporting requirements. Three of these exemptions are also specified in federal campaign finance regulations. The fourth pertaining to communications by member organizations to pay dues paying members, does not exist at the federal level. Let me say that again. Three of them are in the federal level and consistent. The fourth one is not and applies to dues paying members. AM1032 does not strike this fourth exemption entirely. Rather, it rids the bill of the inequality created by the exemption itself. Under LB606 communications that otherwise make reference to a candidate and fulfill the requirements of an electioneering communication are exempt from NADC reporting requirements, if they are sent to members of an organization that paid dues to be members of such an organization. Therefore, speech that is deemed exempt for labor unions, professional associations are exempt, but religious and pro-life or other community associations that may make such communications for purely informational purposes, and do not have dues-paying members, are not. Passage of AM1032 would ensure that all member organizations are treated equitably under LB606. I would make the point that if you take this to heart with the other three exemptions, and then the fourth that I highlight, and you take an organization...pick one, let's say Family First, and they by association believe that you need to see a comparative analysis of candidates, and I'm sure all of you remember filling out the questionnaires on...for your run for election, if they're sending out a comparative analysis looking at candidates and they're sharing that information, I don't think they're being treated as equitably as they could be or certainly on the same playing fields with unions and/or professional organizations. I think that we have a...I think we have a communication...what I would consider to be very close to stifling communication and freedom of speech from those kinds of organizations. Now realize, I would acknowledge that it might not all be a positive thing, but I fear that we walk down this path, and by not allowing those organizations to also be exempt, we are on thin ice. With that, I would yield back the rest of my time. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Krist. You have heard the opening on AM1032 offered to LB606. The floor is now open for discussion. Senator Avery, you're recognized. [LB606]

SENATOR AVERY: Thank you, Mr. President and good morning, colleagues. I've looked at this amendment because I had a chance to look at it yesterday, and I've thought carefully about it. And I'm convinced that this creates a gaping loophole in this proposed law. Let me give you an example of what...if we adopt this, what would happen. A political group engaging in electioneering communication could merely claim

Floor Debate  
April 14, 2011

---

that all the voters in a particular legislative district are members of their organization, because you take out any language that would require members to actively choose to be a part of that membership organization. And if they can claim that everybody in a legislative district is a member, then they could send electioneering communications without reporting. I understand what Senator Krist is trying to do, but I would answer that by saying that if an organization has what they presume to be an interested group of voters that would like to hear from them, that there's no reason why they would not be willing to report that electioneering communication activity. There's no reason at all why, pick the group he said, and I'm not going to pick a group because I don't know all the groups out there, but pick a group that wants to communicate with, say, a church membership. In most cases I think that that group could...would find no problems simply reporting their activity and contributions. This is not an onerous requirement. We do it in a number of different instances involving all kinds of groups. What we are facing here is a new situation in our state where a group has come in claiming to be nonpolitical and filing with the...as a corporation with the Secretary of State and not filing with the Accountability and Disclosure Commission, but they are engaging aggressively in electioneering communication. The exceptions that are spelled out in LB606 were designed to allow for membership organizations to communicate with their own members without having to declare that as an electioneering communication. I think that there might be a few groups that Senator Krist would be concerned about who would not have a membership, necessarily, they would like to communicate with. In that case, they, it seems to me, ought to be willing to report. This is not an onerous requirement. It simply provides voters and the public with more information about who is involved in campaigns, and where the money is coming from. I would suspect, though, that in many cases these organizations that would be included in his amendment, a great many of them would probably have some means of identifying the people that they would consider their target audience and... [LB606]

SENATOR LANGEMEIER: One minute. [LB606]

SENATOR AVERY: ...asking them to agree to be a part of their membership. It doesn't have to be dues paying. That's one way. For example, if you're a union member, you're a dues-paying member of that union. But you don't necessarily have to be a dues-paying member. You can just simply indicate a desire to be. I would suspect that if you're a member of a particular church, that is an indication I desire to be a part of that membership. And that communication would be excluded and would not have to be reported. I think, though, that this is...while well-intentioned proposal, would create a gap. A very, very big loophole that would effectively make this law impotent and useless. Thank you, Mr. President. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Avery. (Visitors introduced.) Returning to discussion on AM1032, those wishing to speak, we have Senator Krist, Nelson, and Pirsch. Senator Krist, you're recognized. [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR KRIST: Thank you, Mr. President and colleagues, again. And thank you for paying attention to this issue. I would politely and respectfully say that this bill is anything but impotent even with the exemption allowed for AM1032. It is much needed legislation. Let me say that again, much needed legislation. However, when I look at the unions, who supported me and I support their efforts, and I look at the professional organizations who supported me and I support their efforts, and I look at those other institutions like Family First who supported me and I support their efforts, I do think that this is...borders on an onerous responsibility. When someone is on a shoestring and does not have membership, but indeed has a like kind mind, and/or moral conviction, and is sending our comparative analysis, they should be afforded the same freedom of speech issues that are afforded those union and professional organizations. And with that, I would yield back the rest of my time. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Nelson, you're recognized. [LB606]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'm interested in this because I have another amendment coming up and I'd like to ask a question of Senator Avery if he will yield. [LB606]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB606]

SENATOR AVERY: Yes, I will. [LB606]

SENATOR NELSON: Thank you, Senator Avery. I'm looking at the exemptions here from electioneering communications, and you have four exemptions here, A, B, C, and D. And I think Senator Krist already mentioned that the first three are found in the federal election regulations, but the D has been added. I'm wondering why we added that in the first place. It looks to me like you're exempting dues-paying organizations such as labor unions and others who are disseminating information to their membership. Why if the others, the non...the organizations that don't require dues or anything, if they're not exempted from this, why should the unions and others that happen to have dues-paying members? Could you respond to that? [LB606]

SENATOR AVERY: Yes. There is already an existing law...language that covers corporations, labor unions, industry, trade, professional associations organized under the laws of the state of Nebraska. That is why. The point here is not only that dues-paying organizations would be exempted, but if you in any other way indicate a desire to be a part of that organization even if you're not paying dues, you would be exempted. [LB606]

SENATOR NELSON: But to further discussion from what Senator Krist says, if, and

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

Floor Debate  
April 14, 2011

---

what you mentioned, if you do have a large church that wants to communicate with its members, and wants to put out information on certain issues, you're saying that the assumption is because they have members who may pledge or something like that, that they don't come under this requirement, that they would have to report that communication? [LB606]

SENATOR AVERY: That is correct. If there is evidence that members of an organization indicate a desire to be a part of that organization, and attendance of a church would be an indication of that, then they would not have to report. The reason why we added this was to exclude those organizations who want to communicate with their members from having to report electioneering communication. Those organizations, however, that are seeking to target other groups of people that are not necessarily members of their organization, then that would be electioneering communication they would have to report. [LB606]

SENATOR NELSON: Well, my only comment is I think this is confusing. I think it's going to be difficult for organizations who don't have dues-paying members, I think they're going to report anyway where the intention would be that they not. And I think that imposes an undue burden on them just because we're trying to target some organization that might come in from out of state. So with that, I will return my time. And thank you, Mr. President. [LB606]

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

SENATOR AVERY: I just want to comment--thank you, Mr. President--that if you go to page 4, at the bottom of the page of the green copy, you'll see that we're not changing all of the law. We're just simply adding electioneering communication in that whole section. It reads, we're talking here about a...these are groups that are a corporation, labor organization, industry, trade, or professional association which is organized under the laws of the state of Nebraska or doing business in this state and which is not a committee. They may make an expenditure, make a contribution, provide personal services, and make electioneering communication. We're adding that language. Such a corporation, labor organization or industry, trade or professional association shall be required to file reports of expenditures...independent expenditures or election communications pursuant to Sections 49-1467. But if it makes a contribution or expenditure or electioneering communication or personal services such as...with a value of more than \$250, they shall file a report. This is not confusing at all. What we're just simply trying to do here is to specify that there are certain groups in corporations, trade associations, labor unions, that have members. And these members either pay dues or they have indicated in some way they desire to be a member of that organization. And if you're communicating with your members, that is not an electioneering communication, therefore, not reportable. If, however, you have...you're targeting, say a group of voters

Floor Debate  
April 14, 2011

---

with this amendment that we're discussing right now, as I've said before, a group could say, well, all of the voters in District 28 are members of my organization because we're removing all the language there that says they have to have...in some way indicate a desire to be a part of that organization. And the result is that it would make the entire law impotent because you can simply say, well, District 28 is my membership and I'm going to engage in electioneering communication with all the members in that district, and I do not have to report. So I'm concerned that if we adopt this amendment that the bill itself will be useless. Thank you. [LB606]

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

SENATOR SCHUMACHER: Thank you, Mr. Chairman and members of the Legislature. This electioneering type of communication, as well as a lot of campaign financing, we all recognize as a major impediment to democracy from the grassroots up at least, and a major way for those with money to manipulate the system. We're probably not going to fix this in a single act. This act does make a modest effort at fixing one identifiable problem. Now this exception may, in fact, at some point prove to be troublesome, but we don't know that yet. If there are...it is used as a loophole, if somebody tries to create problems with it, we may have to come back next year or the year after that, after we can identify exactly what the problem is, and fix it. But I think this is a good step as it is originally written, a good effort to come to grips with the problem, and I would oppose AM1032 and strongly support LB606. Thank you. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Schumacher. Speaker Flood for an announcement. [LB606]

SPEAKER FLOOD: Thank you, Mr. President and members. Good morning, again. I wanted to rise as it relates to our adjournment time today. I do plan to adjourn at noon today. Get people going and, obviously, we will be back here Monday. I would like to make very clear, though, in the future, be very careful making plans over the lunch hour on the last day of the week because we will start using those lunch hours. But I do think we are making some progress this week and a noon adjournment makes sense. So plan on that for today and then we'll all be back here 10:00 a.m. Monday. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Speaker Flood. Continuing with discussion on AM1032, Senator Lautenbaugh, you're recognized. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I rise, I guess, in ambivalence towards this amendment. I really don't know what to make of it, and I'm not sure which way it cuts and I'm not sure what it does. But understand, if we had this law in place last year, I think what we would know that we don't know now, is

Floor Debate  
April 14, 2011

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how much Americans for Prosperity spent. And that would really be it. So if you're into that kind of thing and you find it helpful after the election to know what had happened to you, then if this law comes into effect in the future, you may know what was spent against you. And what you will do with that information, I don't know. You may complain about it. I've complained about it in what some of the groups spent against me. I know what they spent. It hasn't done me a whole heck of a lot of good on a go forward. I suppose knowledge is power. Doesn't seem to be in this case because, you know, so I know. So what? If we pass this bill, we'll know. And I would submit to you that again the problem remains is that we are fumbling around today because we are trying to, in some way, to put it bluntly, mess with free speech. In our political campaigns the most basic, supposedly most protected, free speech. And we're trying to talk about what a membership group is, and what a membership group isn't, and what you have to do to be a member, and how do we know you're a member, and should you communicate with your members, and God forbid if you should communicate with anyone who isn't one of your members. I hope there's a point at which we all start to recoil from this type of thing. Get out an atlas, whatever you need, to remind you that we do live in America. And this is the kind of thing that we don't have any business messing with. And you may say, well, recent trends have said we can do some regulation here in some trivial ways and in some damaging ways, possibly. My response to that is, so what? If those are the recent trends, then the recent trends, like so many other things, are wrong. They are incorrect and it is time to start stepping back from the mistakes we have made. And intervening in this area in this way, and in several other ways that we will be discussing, it's been a mistake. It has been a failure. And if this bill passes, the sun will come up tomorrow, the sun will set this evening, the next campaign will pretty much proceed like the last campaign proceeded. We may know a little more about what some group that already put on the bottom of its mailings, paid for by Americans with Prosperity, and anyone with access to the "interwebs" can look it up and find out exactly what Americans for Prosperity is, so fine. We would know, after the fact, what they spent if this seminal piece of legislation chugs on past Final Reading. I don't know what to say about the amendment, but I know what to say about what we're doing overall. If my friend from Gretna, I think was still here, he would say, poppycock, because we aren't doing a thing here. And we can say we're doing something and we can talk about transparency, and we can thump our chests and say, look how great we are, look what we're doing here for you voters. We aren't doing anything but talking. And maybe I enjoy that, so fine. This is probably the right place for me, but we're not doing anything. Please keep that in mind. Please start to remember some of our first principles regarding what a democracy is, and what the First Amendment means, and what we should be free to do. And please start recoiling from this type of thing. Thank you. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Senator Fulton, you're recognized. [LB606]

Floor Debate  
April 14, 2011

---

SENATOR FULTON: Thank you, Mr. President and members of the body. I was listening to Senator Avery and just starting to think through Senator Krist's amendment. The concern that Senator Avery raises, it's a legitimate concern, but I don't know that it's warranted. So, okay, page 3 of the bill, Senator Krist is moving to strike, "when the member has paid a fee to be a member or has submitted a written document indicating intent to be a member." And Senator Avery's contention is that some group could send postcards or e-mails or phone calls or whatever it is into a district and just claim, well, I'm just communicating with my membership. And, you know, that would be bad and indeed it would subvert the intention of the law. But my question is, we still have Section 3 which makes the references...or makes the definitions of what electioneering is. So if it refers to a clearly identified candidate or part (b) or part (c) on page 2. Well, the only way that there's going...that this bill, if it were to become law, the only way it would become operative or it would even come into question is if someone complains. And it seems to me that the complainant wouldn't be a member of such an organization. So Senator Avery's concern is that a group could simply send out a mass communication and claim that he was communicating, or she was communicating with...or it was communicating with its membership, then if one person steps forward and says, hey, I'm not a member, well, then we're back to the electioneering law. So I guess I'm saying, I don't see any problem with Senator Krist's amendment, AM1032, because I don't know that the concern that Senator Avery puts forward is warranted. Now, and I'll admit freely I've not thought through this, but that's...I mean, that's what it seems like to me. The only way this is going to become operative is if someone complains and the person complaining is probably not going to be a member of such an organization. So there you have it, that person not being a member would cause this electioneering law to have its effect. So thank you, Mr. President. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Karpisek, you're recognized. [LB606]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I think LB606 does have the right idea behind it to try to make sure that we know where this solicitation is coming from so someone just can't put things out there that are negative about one candidate or another, but then say, well, we're just putting out facts. I think LB606 is right on the head on that. I do believe that AM1032 would create too much of a loophole in what LB606 is trying to accomplish. I don't know how you could actually not say that someone is a part of your group without their express consent. I think Senator Avery has made that point, but being on the Government Committee and voting this out, I feel that LB606 in its current form is the way to go. Thank you, Mr. President. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Those still wishing to speak, we have Senator Wallman and Senator Lautenbaugh. Senator Wallman, you're recognized. [LB606]

Floor Debate  
April 14, 2011

---

SENATOR WALLMAN: Thank you, Mr. President. If we truly want reform, do we truly want reform? We take off the deductions for income tax for political contributions, then I think we'll start getting reform. And like Senator Schumacher said, a piecemeal here, a piecemeal there, but true reform, take it off...you can't take it off your income tax, the deduction. I think then we'd start getting reform, but we're not going to do that in here. So Senator Avery is always working on this, and I appreciate what he's doing. And so thank you, Mr. President. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Lautenbaugh, you're recognized. Not seeing Senator Lautenbaugh, Senator Harms, you're recognized. [LB606]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition of AM1032. I don't think it's appropriate. I do support Senator Avery's underlying bill, LB606. This is an opportunity for us to do what's right and to get a better handle on controlling what takes place in our districts and throughout the state of Nebraska. What Senator Avery has done here is a step in the right direction, and I would urge you to vote against AM1032 and then support LB606. And Mr. President, I would yield the remainder of my time to Senator Avery. [LB606]

SENATOR LANGEMEIER: Senator Avery, 4 minutes 20 seconds. [LB606]

SENATOR AVERY: Thank you, Senator Harms, and thank you, Mr. President. Let me give you another example of how this amendment would affect the bill. If you are an organization, you can define what your membership is. You can define membership as paying-dues members or you can say that your members are people who respond to an e-mail indicated an interest in being a member. You can also define associate members and they can be anybody within a specific geographic area. Without the language that's in this green copy, which would be stripped out by this amendment, then these organization will be able to engage in electioneering communication without reporting. The whole purpose of LB606 is to require reporting, to bring some transparency to what we all agree is a problem. It does not stop the activity from taking place. It does not restrict any organization's ability to engage in electioneering communication. It does not restrict any organization from engaging in the political process. Does not restrict their speech at all, but it simply says that if you're going to do this, you cannot hide in the murky shadows of secrecy. You're going to have to let the voters know. You're going to have to report who you are, where you're money comes from, and what you're spending, and where you're spending it. It seems to me that this is something that we can all agree on and we had 31 votes on General File. And if we adopt this amendment, then it creates a loophole that I'm afraid would completely destroy the intent of this bill. So keep in mind the examples that you've heard so far. If I'm an organization and I can actually define what my membership is, then it can be as expansive as I want it to be. And once I've done that, then I can do all kinds of electioneering communication and will

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

Floor Debate  
April 14, 2011

---

not have to report. And that undermines the intent of this bill, and I would urge you to reject the amendment, AM1032. Thank you, Mr. President. [LB606]

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

SENATOR KRIST: Thank you, Mr. President and colleagues. I wondered if Senator Avery would talk to me on the mike for a few minutes. [LB606]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB606]

SENATOR AVERY: Of course. [LB606]

SENATOR KRIST: Thank you, Senator. Coming up here in a bit, LB176 authorizes Nebraska Accountability and Disclosure Commission to order violators to pay hearing costs. So take me through a scenario where a defined membership, at least by an organization, who say that if you are this religion, if you live in this district, if you are of a particular persuasion, whether it be cultural or ethnic, then you obviously believe the same things I do, and you are obviously a member. Take me through a scenario where there would be a contested activity to say, indeed you did something and you didn't report it and you are not a member-pledged organization, therefore, we are going to take you to court or bring you to a hearing and fine you. [LB606 LB176]

SENATOR AVERY: Are you referring to the bill in the green copy or if your amendment is adopted? [LB606]

SENATOR KRIST: Well, I'm referring to...I'm referring to as the bill exists right now in definition of membership being, I understand either paid or unpaid members, the interpretation there of what a member is. [LB606]

SENATOR AVERY: Well, the...what a member is, is someone who has paid a fee to join, a dues-paying member, someone who has indicated the intent to be a member with a written statement, document, e-mail response, something like, and it's very clear that you have a voluntary group of members. And if you are sending a mailing to those members that's...under the definition that we have provided in this bill that would qualify as electioneering communication, you would not have to report. It's only those groups that do not have a defined membership that would be engaging in electioneering communication. Those are the ones that would have to report. [LB606]

SENATOR KRIST: So if I understand your explanation correctly, an organization like Family First who sends out comparative analysis of campaign candidates who have filled out a survey, and they send it out to everybody in District 10 because they infer that everyone in District 10 would like the information, or would either be swayed by the

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

Floor Debate  
April 14, 2011

---

information that they would set out, that they would indeed have to report, and it would have to say that they are engaging in electioneering. [LB606]

SENATOR AVERY: If their communication met the criteria spelled out in the bill for electioneering communication. If it referred to a clearly identified candidate, if it was publicly distributed in the 30 days before the election, and if it was directed to the electorate of the office sought by the clearly identified candidate, yes. [LB606]

SENATOR KRIST: What if there are six clearly identified candidates on the piece of mailing that goes out to everyone in District 10? [LB606]

SENATOR AVERY: If it met these four...or these three criteria, yes, it would qualify as electioneering communication. I'm not familiar with how Family First works, but I suspect that they would not object to making filings if they were engaging in electioneering communication. [LB606]

SENATOR KRIST: Well, I go back to your point earlier on the mike when you said that the shadowy, murky shadows, I think was close. I don't think any organizations that I'm bringing up, Family First being probably the best example, there's any doubt that you're getting something from Family First. I mean it says so at least... [LB606]

SENATOR LANGEMEIER: (Gavel) One minute. [LB606]

SENATOR KRIST: ...four for five places on the piece of paper or on the mailing that comes out. I just don't think that that criteria being...that first of all, the fourth criteria or exemption is inconsistent with federal law. I think that there is a real gray area when it comes to defending or defining membership, and I don't believe it has a place on LB606, while I do believe the rest of LB606 goes a lot further in defining those. So thank you, Senator Avery, and thank you, Mr. President. [LB606]

SENATOR LANGEMEIER: Thank you, Senator Krist. (Visitors introduced.) Continuing with discussion on AM1032, those wishing to speak, we have Senator Louden and Senator Avery. Senator Louden, you're recognized. [LB606]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Avery yield for a question? [LB606]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB606]

SENATOR AVERY: Of course, I will. [LB606]

SENATOR LOUDEN: Senator Avery, on...now I'm talking on the green copy because the way I understand it, that's what this amendment, AM1032, refers to and there it's on

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

Floor Debate  
April 14, 2011

---

page 3, and it strikes the part...it starts out with, "communication by membership organization to the membership organization members"... [LB606]

SENATOR LANGEMEIER: (Gavel) [LB606]

SENATOR LOUDEN: ...and then it strikes out, "when the member has paid a fee to be a member," and so forth, or written document. Now who is the membership organization? Can that be a political party or can that be your local Knights of Columbus? I mean, who are we talking about here when you say a membership organization? [LB606]

SENATOR AVERY: Well, a membership organization is any organization that claims to be an organized group with members, and they're identified members based on an indication by written document. If you register with one party, that is a written statement that you wish to be associated with that party. If you are a member of an organization that has dues...that requires dues, and you pay those dues, that's an indication you wish to be a member. [LB606]

SENATOR LOUDEN: Okay, then...and this pertains to sending some, oh, election campaign literature or something like that to these membership organizations or members of this organization? Is that what you're talking about? [LB606]

SENATOR AVERY: Yes. The...we have already in law, reporting requirements for all kinds of groups and political parties. What we're trying to do here is to avoid a situation where an organization could make a broad claim that all of the voters in District 45, for example, are a member of my organization. I can send out an electioneering communication to all of those voters and I would not have to report any of that activity to Accountability and Disclosure. That's why I say this is a gaping loophole in the law, because if you go to that reference you just made on page 3, this amendment would mean that the language would stop at "members." It would say a communication by a membership organization to the membership organizations members, period. If there's no requirement there as to how you prove membership or how you verify membership, then it really does open it up so that the bill itself becomes ineffective. [LB606]

SENATOR LOUDEN: Well, I...yes and no. I guess what I'm wondering then if you were campaigning, then would this allow you to send campaign literature out to every registered...as you had been a Democrat of every registered Democrat in your district? Because perhaps a lot of them that are registered... [LB606]

SENATOR AVERY: You already have to report, Senator. [LB606]

SENATOR LOUDEN: Already they might not be a dues-paying member, but they may be registered for that political party. Does that affect those people there? [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR AVERY: You already have to report as a candidate, your political committee has to report. This would not...this would not affect that at all. [LB606]

SENATOR LOUDEN: When we've sent mailings out to different people, why, we usually looked up the political parties or something like that and sent them out accordingly, and you're telling me that that has to be reported? You don't necessarily have to report when you get the list of people of a political party in your county, you don't have to report that you've sent all of those people a mailing, do you? [LB606]

SENATOR AVERY: You have to report your expenditures. You have to...and you have to register your committee with A and D Commission. That's all this is asking. [LB606]

SENATOR LOUDEN: Yeah, you have to register your committee but you don't have to register that you sent these mailings out to these.... [LB606]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB606]

SENATOR LOUDEN: ...particular people. [LB606]

SENATOR AVERY: You have to indicate how you spend your campaign money on your A and D report. [LB606]

SENATOR LOUDEN: I know, but you can say mailings and that could include everybody in the whole county. It doesn't necessarily... [LB606]

SENATOR AVERY: Sure. [LB606]

SENATOR LOUDEN: ...say that you can't send them to people that are on your...that belong to... [LB606]

SENATOR AVERY: Sure. And all we're asking here in this bill is that groups that are currently not reporting, but should be reporting because they're engaging in electioneering communication, all we're saying is, let's make them report. Just like you have to report, just like your party has to report, just like other political committees have to report. [LB606]

SENATOR LOUDEN: Right. But we're talking about members, and in order to be a member, you either had to pay a fee or else indicate you're going to pay a fee. Now what about church members because a lot of church members, people go to church that don't pay any fees, I can...I'm sure there's a lot of... [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR CARLSON: Time. [LB606]

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

SENATOR CARLSON: Thank you, Senator Louden and Senator Avery. Senator Avery, you're recognized. This is your third time. [LB606]

SENATOR AVERY: I would like to continue that discussion with Senator Louden. Churches usually do not engage in electioneering communication and would not be covered by this law. Certainly, my church doesn't. And if you look at the requirement or the definition of electioneering communication, it's pretty clear that you have to have clearly identified a candidate in your communication, and it has to be distributed in 30 days prior to the election, and it has to be directed at the electorate of the office sought by the clearly identified candidate. You specify in that communication which candidate, you distribute it 30 days prior to the election, and it's directed at the voters in the district or the geographic area of the office sought by that clearly identified candidate. That's an electioneering communication. I think we can all agree that that's a reasonable definition. And if...I'm pretty sure that churches would not come under that definition of electioneering communication. Maybe you know churches that are different. (Laugh) [LB606]

SENATOR LOUDEN: After that? (Laugh) [LB606]

SENATOR AVERY: Yes, I would ask you that question, if you would yield. [LB606]

SENATOR CARLSON: Senator Louden, would you yield? [LB606]

SENATOR LOUDEN: Yes, thank you, Mr. Speaker. I pretty near had a notion to hold my breath until he asked me. (Laughter) Anyway, when you go here, that's fine. I mean, I understand everything you said but at the end there, you said that a member has paid a fee to be a member or has submitted in the written document indicating an intent to become a member. And this is where I'm wondering if we're opening this up for...as I use that as an example, people from church or a political party that don't necessarily pay a fee to be a member of that particular organization, but yet are they entitled to receive these mailings or whatever we have out there. That's what I'm wondering when you put that part of that language in the amendment. [LB606]

SENATOR AVERY: This doesn't affect...when you say entitled to receive, this doesn't affect who is entitled to receive anything. This simply says, if you're going to engage in this kind of activity, it's political activity, and you must report it if you meet the definitions. Now I think churches probably would not meet the definition, but there are organizations that would be exempted because they are communicating directly with their identified members. And already political parties have to report, unions have to report, and what

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

Floor Debate  
April 14, 2011

---

we're trying to do here is identify those groups that currently do not report to define their activity in the law so that they will now have to report, not stop what they're doing and not in any anyway say anything about the content of their communication, but simply say, if you're going to do this you have to report. It's a question of transparency and accountability. [LB606]

SENATOR LOUDEN: Well, I understand if you have to do it, you have to report. But I'm just wondering why they have to be a member of an organization, I guess, in order to follow through with this. That's my concern, Senator Avery. [LB606]

SENATOR AVERY: No, that's the exemption, sir. Being a member of an organization, you're exempted from this. [LB606]

SENATOR LOUDEN: And that's the part...the problem I have with is the section (d) on your LB606. [LB606]

SENATOR AVERY: And that's what this amendment is addressing. [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR AVERY: And this amendment, if adopted, would mean that effectively any group could say, my membership is all of your district and, therefore, I can mail whatever I want to and I don't have to report it. [LB606]

SENATOR LOUDEN: Thank you, Senator Avery, for your explanation. [LB606]

SENATOR AVERY: All right. Thank you, Senator Louden. I have no more comments, Mr. President. Thank you. [LB606]

SENATOR CARLSON: Thank you, Senator Avery and Senator Louden. Those still wishing to speak, Senator Lautenbaugh, you're recognized. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Avery would yield to a question or two. [LB606]

SENATOR CARLSON: Senator Avery, would you yield? [LB606]

SENATOR AVERY: I will. [LB606]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. If this bill passes, and it applied to...say it passed last year and it applied to Americans for Prosperity. What is your understanding of what they would have to do...have had to have done? [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR AVERY: They would have to register with the Accountability and Disclosure Commission just as any other political organization. They would also have to report their contributions and their expenditures. [LB606]

SENATOR LAUTENBAUGH: Now, and your talking about nationwide expenditures, that's your...? [LB606]

SENATOR AVERY: No, no, just in Nebraska. [LB606]

SENATOR LAUTENBAUGH: And how about contributions? [LB606]

SENATOR AVERY: Well, the contributions they received and spent in Nebraska would have to be reported. [LB606]

SENATOR LAUTENBAUGH: Just the ones that were received from Nebraskans or just...? [LB606]

SENATOR AVERY: No, no, no. The contribution requirements that we have in current law requires you to report all contributions from all sources over a certain amount within the period of the election cycle. So it could be out of state, it could be instate. [LB606]

SENATOR LAUTENBAUGH: What would stop Americans for Prosperity from setting up an independent expenditure group of their own and just giving a check to that independent expenditure group? [LB606]

SENATOR AVERY: The independent expenditure group would come under existing law. [LB606]

SENATOR LAUTENBAUGH: And they would have to report they got money from Americans for Prosperity? [LB606]

SENATOR AVERY: Yes, and they would have to report how they spent it. [LB606]

SENATOR LAUTENBAUGH: Okay. So why wouldn't Americans for Prosperity just do that and set up some group called Americans for a Better Tomorrow and try to influence campaigns in Nebraska? [LB606]

SENATOR AVERY: Well, if they did that, then it would be entirely legal under current law and this law would not be necessary, but that's not what they've done. [LB606]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. I hope that was clear because this is an important point. These mailings that went out that brought about this bill said, paid for by Americans for Prosperity on the bottom. You could look it up on the Internet

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

Floor Debate  
April 14, 2011

---

and see who Americans for Prosperity is if you have a mind to. If we do something like this and if Senator Avery's interpretation is correct, Americans for Prosperity would have to disclose their nationwide contributors to cover the expenditures that they made in Nebraska. Now the name of the group is not Stupid Americans for Prosperity, it's Americans for Prosperity. So what they would do is set up their own independent expenditure group and you would get something in the mail that says, paid for by somebody else for prosperity. And it would then be incumbent upon you to go to the NADC Web site and look up their contributors. What happened in the last election mystified no one. No one got something from Americans for Prosperity and said, gee, I would never know how to find out who that is. They're nationwide. If this passes, we are doing exactly what I've been talking about on campaign finance issues, if Senator Avery's interpretation is correct, we would force their money underground into an independent expenditure group that no one has ever heard of. And you'd have to go to the NADC and find out who they were, if they've timely reported, if you can find it on the Web site, if it's a complete report, if it's not amended later, if it's not late, etcetera, etcetera, etcetera. This is what we're doing, folks, in the name of transparency. This is Orwellian transparency. We are forcing the money underground, out of sight, in the interest of transparency. That doesn't make any sense. And the definition... [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR LAUTENBAUGH: ...of who...thank you, Mr. President. The definition of who would be a member, as I read this, if a church, and churches do do this, sent out a mailing 30 days before an election saying all of these senators voted against a pro-life bill, they would have to register. They would have to report. So to say churches don't do this or this would never apply, I don't see that from the plain language of this bill. It says, you're sending out something that mentions a candidate in the district of the candidate within 30 days of the election. If a church wanted to send out materials that said these candidates did not support pro-life issues, or these candidates did support pro-life issues, we'd make them register, and apparently report their contributors and expenditures? Are we going down the right road here? I know we're tired. I know it's been a long week, but... [LB606]

SENATOR CARLSON: Time. [LB606]

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

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those still wishing to speak include Fulton, Lautenbaugh, Price, and Mello. Senator Fulton, you're recognized. [LB606]

SENATOR FULTON: Thank you, Mr. President and members of the body. I was having a conversation with Senator Avery and we can probably do it on the record if Senator

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

Floor Debate  
April 14, 2011

---

Avery would yield to a question. [LB606]

SENATOR CARLSON: Senator Avery, would you yield? [LB606]

SENATOR AVERY: Yes, I will. [LB606]

SENATOR FULTON: Okay, Senator, you may not have the answer to this yet, but at least we can talk about it. Maybe I will put my light on again and we can finish talking about it. I'm thinking...I've talked with Senator Christensen and he brought to light that this, as written, would affect other groups, some of whom are the pro-life groups out there, Lincoln Right to Life, the local groups, Nebraska Right to Life, the statewide group. It seems to me it would also affect the other side of the abortion issue and that's Planned Parenthood. In your understanding, would LB606, if say, Planned Parenthood or Lincoln Right to Life, we'll just be equal opportunity here, if either of those groups were to send a piece of communication to their memberships, would they...talking about who their respective PACs, which may be at a higher level, have endorsed, would that not fall under LB606? [LB606]

SENATOR AVERY: Is that a question to me? If it goes to their members, no. If it goes beyond their membership, yes. [LB606]

SENATOR FULTON: Is there a way that...so if we don't adopt AM1032, are all members of Lincoln Right to Life dues pay...well, I'll just tell you, they're not. All members of Lincoln Right to Life aren't necessarily dues-paying members because I get their mailings and I don't pay any dues to them. I would wonder on the flip side, are all of the people who Planned Parenthood sends their informational mailings to, are they all dues-paying members? [LB606]

SENATOR AVERY: I don't know. [LB606]

SENATOR FULTON: You see where I'm going with this, Senator? [LB606]

SENATOR AVERY: Yeah, I do. [LB606]

SENATOR FULTON: There could be...if we don't adopt AM1032, it seems to me that we would be encompassing groups out there that we don't intend to encompass. [LB606]

SENATOR AVERY: No, I think you've made a good point and the point is, that this not about any one group. It's about an activity, the activity as defined in this bill, which is called electioneering communication. And if you engage in electioneering communication, and you're communicating with people beyond your membership, yes, you would come under this law. I want to correct one thing when I was in my discussion with Senator Lautenbaugh, I said that there is a requirement to report all contributions.

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

Floor Debate  
April 14, 2011

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That is not in this bill. I'm sorry about that. [LB606]

SENATOR FULTON: Okay. How much time do I have left, Mr. President? [LB606]

SENATOR CARLSON: Two minutes. [LB606]

SENATOR FULTON: Okay. I'll make my point here, Senator Avery, and then I'm going to yield the rest of my time to you. It seems to me that adopting AM1032 is prudent because if an individual receives a mailing and if the concern is, well, some group, you know, Americans for Prosperity or some other group sends out a mass communication and says, well, everyone in the state of Nebraska is my member, if one person stands up and says, look, I'm not a member, it seems to me that the force of LB606 would come into play. By adopting AM1032, then we would...we would allow these smaller groups that operate oftentimes on a shoestring like Lincoln Right to Life, or probably Planned Parenthood also, although I'm not sure, then we would not be focusing this bill on them, which I don't think is the intention here. So I do believe adopting AM1032 will allow LB606 to have its effect in a more appropriate way. I'd like to yield the rest of my time to Senator Avery. [LB606]

SENATOR CARLSON: Senator Avery, one minute. [LB606]

SENATOR AVERY: Thank you, Senator Fulton. Actually, I don't agree with that. There is no way that if we adopt this bill that we do not create a loophole that will be exploited by virtually every group that otherwise would come under the terms of this law, because if you can simply say, all the members of District 28 are my members, and all the voters there are my members and, therefore, I don't have to report my communication, then this is totally ineffective. And I would submit to you that there are groups that would do that. Now this is not about Planned Parenthood. It's not about Nebraska Right to Life. If, however, they come under the definition of electioneering communication, and they're communicating with people beyond their membership, yes, they would have to report. I know people in both of those organizations, know them well. [LB606]

SENATOR CARLSON: Time. [LB606]

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

SENATOR CARLSON: Thank you, Senator Avery and Senator Fulton. Senator Lautenbaugh, you're recognized and this is your third time. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body, friends all. I agree with Senator Fulton's sentiments on this regarding the amendment, and I'm warming to supporting the amendment. It does trouble me that we are encompassing a lot of groups that I don't think we mean to or want to encompass with

Floor Debate  
April 14, 2011

---

this legislation. And I think it would go to churches. And I appreciate Senator Avery's correction if they wouldn't have to report their contributions, that's fine. But we are going into new territory if we are going to require churches to report mailings of the type I just...or register, I should say, and report mailings of the type I just described. And it is possible that Americans for Prosperity was pushing the envelope of existing law in saying that they were not sending out electioneering materials, it was educational materials. But that is a distinction that exists and it exists for a reason. And what I'm telling you is, under the definition as set forth in this bill, we would be targeting churches. We would be requiring them to register if they wanted to do something as very traditional for some of these churches, as is very traditional for some of these churches of advising people where...advising their congregation, advising others, where people stand on a certain issue. That's what we're talking about here. Make no mistake, this will sweep churches up in its ambit, it will sweep other groups, as discussed by Senator Fulton. This is...and again, what we're hearing is what on the back side wouldn't be burdensome for someone like Americans for Prosperity, but we'd require these churches to disclose the cost of their expenditures that might create recordkeeping requirements for the churches they don't normally do. It's certainly reporting they don't normally already do. This is a problem. And what I'm getting at and coming around to is, this bill is being brought to deal with a perceived problem from the last election with a solution that does nothing vis-a-vis Americans for Prosperity. If they registered as Americans for Prosperity, and reported what they had sent out after the fact, well, then we would know. So what? I say again, so what? That doesn't do any good. In my last race it wasn't Americans for Prosperity but it was an independent expenditure group spent \$30,000...I'm sorry, \$35,000 against me in the last week with four or five mailings. Well, I know how much they spent. All right, what did I do with that knowledge? Was I going to hold a fund-raiser in the last week and go to get that money and counter it and somehow get mailings printed up in a timely way? No. I mean, what do you do? What can you do? I've told you in another context what we could do, and we'll talk about that again as it comes up. But this bill, I'm sorry, does not do anything except increase the burden, I believe, on churches and other groups if they do do what I believe constitutes simple voter education. I don't think someone should have to be regulated in anyway to tell their members, well, Senator Lautenbaugh.... [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR LAUTENBAUGH: ...didn't vote for, you know, repealing the death penalty, or Senator Lautenbaugh first voted for the roads bill and then he changed his mind and voted against the roads bill. That's just a statement of fact. Well, that hasn't happened yet, but I'm saying it could be a statement of fact, those types of things. And, you know, is that really electioneering or is it just telling people who we are and what we do? This bill is one of those rare creatures that does more than you want and less than you think. And that's not a good combination. I would urge you to adopt this amendment, and I don't know where we go with the bill, but we'll have to see. Thank you, Mr. Speaker, Mr.

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

Floor Debate  
April 14, 2011

---

President. [LB606]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Price, you're recognized. [LB606]

SENATOR PRICE: Good morning, thank you, Mr. President, members of the body. Would Senator Avery yield to a question? [LB606]

SENATOR CARLSON: Senator Avery, would you yield? [LB606]

SENATOR AVERY: Yes, I will. [LB606]

SENATOR PRICE: Thank you, Senator Avery. I'm reading through the bill and I'm looking at something. In light of the discussions we've had this morning, why do we have a large and where did the idea for the exemptions to electioneering come from? I see if you pay a fee to belong to a group or even, you know, intend to pay a fee to belong to a group and they have a periodical and they send it out to you, and they talk about a candidate and/or a position, that is not electioneering. Am I right on that one? [LB606]

SENATOR AVERY: Well, yes, these exclusions here are simply reasonable communications that are not necessarily covered by the definition of electioneering communication, like a candidates debate for example. [LB606]

SENATOR PRICE: Okay, great. So did these exclusions come from the...from another source, like is this a federal definition, something that is used somewhere else? [LB606]

SENATOR AVERY: Well, actually we researched this very carefully. And we looked at what other laws existed in other states. And we looked at federal law as well. And we crafted what we think is the best law to fit the state of Nebraska and to be also consistent with court cases that currently...current rulings that we know about. So it was a pretty exhaustive process. [LB606]

SENATOR PRICE: All right. Thank you very much, Senator Avery. I just asked the question because as I looked at it and read it, it does seem that we have carved out large exceptions, let's say if the VFW magazine, you're a VFW member, the VFW can send out an article and say who's good or who they perceive to be a positive candidate or not. So we do have large exceptions. That's why I brought it up; it caught my eye. And with that, Mr. President, I would yield the balance of my time to Senator Lautenbaugh, if he would like to use it. [LB606]

SENATOR CARLSON: Thank you, Senator Price. Senator Lautenbaugh, there's 2 minutes and 40 seconds. [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you, Senator Price. Again, kind of expanding upon what we were just talking about, I'm struggling with this bill. I may have even voted for it on General File, to be honest with you I don't recall for sure because I was ambivalent then too. But sometimes we do things and despite the amount of time and the cost of bringing the bill and everything else, they don't really get us anywhere. I think the first bill I ever spoke against was some bill that required a certain policy to be adopted by school boards. And as I read through the bill and read through the bill I couldn't really tell what we were trying to do. We didn't tell them what had to be in the policy. And we just told them they had to devise a policy and revisit it every so often. But to what end we didn't tell them how to revisit it. And I was told, well, we've been working on this for several years and we've finally gotten this to the point where it really doesn't do anything because 95 percent of the districts are already doing it, so we should just pass it along. Well, that's a horrible reason just to pass something along. Don't worry, it doesn't do much of anything, so put it in statute. The books are thick enough. We don't use books anymore really, but you know what I'm getting at. I don't feel that this is a difference that makes a difference. The amendment removes some concerns that maybe, as Senator Avery argues, makes the bill do even less if the amendment passes. But where do we go with something like this? [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR LAUTENBAUGH: We're talking about it for a long time this morning, it appears. But I think this is the kind of thing we need to think about because as I said before, it's that rare animal that maybe at its heart does nothing, but maybe in the regulatory ambit of it does too much for churches and whatnot. And that's hard to get enthused about. We've heard arguments before, you know, how are you going to look your constituents in the eye when you do X or Y? Well, fine. Not that anybody is going to bring this up until some church gets dinged for sending out their circular in the parking lot and not registering with the NADC. I don't know. I can't find a compelling reason to do any of this. This is just an area where every time we do something we make something worse, in my opinion. And that's not an inspiring and uplifting reason to move a bill forward. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those wishing to speak: Senators Mello, Campbell, and Wallman. Senator Mello, you're recognized. [LB606]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. A couple of items. With all due respect to my colleague, Senator Lautenbaugh, I think we've heard arguments over the last three years from Senator Lautenbaugh that he generally does not like the existing state laws regarding campaign finance. He would rather get rid of all of them. So his opposition to LB606, in my mind, is no surprise because he has taken a principled stand, he has a bill, his priority bill which eliminates our campaign finance

Floor Debate  
April 14, 2011

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system as we know it. And this is another venue as we had a similar, somewhat, debate on his measure on General File. So I appreciate his passion, it's the principled stand he takes. It's something he has raised since I've been here on every chance he gets. And I have to respectfully disagree with him because my interpretation in asking and trying to get some clarification from NADC a little bit on what this amendment actually would do to the underlying legislation, Senator Avery expressed it fairly clearly. Adopting AM1032 provides complete authority, thus creating a significant loophole to any organization in regards to them classifying what they want as membership. Right now under the current green copy, if they choose to engage in electioneering activities that are defined in the green copy they have to express, when they're dealing with their membership, whether or not it's paid membership or it's the intent of a person showing they want to be a member, thus signing up on a Web site, saying, yes, I want to be a member or filling out a card saying, yes, add me to your mailing list, I want to be a member. In my interpretation that's fairly clear, that's showing significant intent. AM1032 allows an organization unilaterally, essentially, to classify the residents of the state of Nebraska as associate members of their organization, thus allowing them to engage in electioneering activity to the fullest extent without having to report it. I find it disingenuous to try to engage or try to bring in religious organizations into this debate, frankly, under the guise of being in opposition to LB606 or in support of this amendment. The reason why is anyone who follows any federal election law would know a religious organization is a 501(c)(3). They cannot engage in electioneering activities. And if they're engaging in the activities that Senator Lautenbaugh, Fulton, or anyone else is describing on the floor today they would be subject to losing that 501(c)(3) status. If they're engaging in providing information to try to influence an election 30 days before an election, whether it's fliers, circulators describing a senators or a candidates or an elected official's position before an election that would necessitate them as electioneering and thus losing their 501(c)(3) status. So if a church or religious organization for that matter is engaging in these activities and they would be required to file NADC information, that only helps them probably in the long run because it's steering them away from losing what would be the monumental aspect of the elimination of their organization by losing that 501(c)(3) status. Now I'm not an attorney but I know enough about 501(c)(3) organizations that essentially eliminates a church. So when we discuss and we could have a separate debate in regards to the connectedness of the separation of church and state in regards to our body politic, but I'd rather not go there on this bill because I think that tries to take the issue in another direction. Those who are using churches would be harmed by LB606. I would beg to differ by saying by adopting LB606 without Senator Krist's amendment only helps them. It helps steer them away from what would be the death of their church because they would lose... [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR MELLO: ...their 501(c)(3) status by engaging in the activities that Senator Lautenbaugh and Fulton are emphasizing that they currently already do because if

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

Floor Debate  
April 14, 2011

---

churches are currently already doing that, they would need to be reported on because that is illegal under federal election law, under federal IRS law. So to make sure that point is very crystal clear in the floor debate today we are not hurting churches. We are not hurting religious organizations. We are helping them, steering them clear of what would be a very, very bad decision by them engaging in electioneering activity that would cause them to lose their 501(c)(3) status. Thus we have no need for AM1032. It only provides more justification for organizations to bypass the law instead of making it somewhat crystal clear that Senator Avery has emphasized over and over again, which doesn't allow them to classify all residents of the state of Nebraska as associate members with the adoption of AM1032. It's spelled out clear... [LB606]

SENATOR CARLSON: Time. [LB606]

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

SENATOR CARLSON: Thank you, Senator Mello. Those still wishing to speak: Campbell, Wallman, Fulton, and Price. Senator Campbell, you're recognized. [LB606]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I'd like to know if Senator Lautenbaugh would entertain a conversation. [LB606]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB606]

SENATOR LAUTENBAUGH: I'll try to be entertaining. [LB606]

SENATOR CAMPBELL: Senator Lautenbaugh, I'm going to follow-up a little bit on what Senator Mello talked about because when I was on the county board I used to take complaints from constituents on 501(c)(3) organizations that they thought were beginning to stray into political activity. And, you know, I would refer them to the federal laws and make it clear that they received a tax exemption and on and on. And I certainly agreed with that exemption. But you have this morning talked a lot about churches. At what point can the church or any church or any 501(c)(3) be involved in political activity? [LB606]

SENATOR LAUTENBAUGH: I think the short answer, and honestly I've never litigated in this area myself, the short answer is they can until they can't because at a certain level it's in the eye of the beholder. [LB606]

SENATOR CAMPBELL: So unless there is a complaint about the political activity, a 501(c)(3) or a church could just keep going? [LB606]

SENATOR LAUTENBAUGH: Well, that's not ideal because at some point, you know, depending on what you're doing you probably would be violating the law. But I think it

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

Floor Debate  
April 14, 2011

---

matters. You know, I don't know if electioneering is actually defined the same way at the federal level for tax purposes as it is being defined in this bill. They both might be called electioneering, but they might be defined entirely differently. We can't say that I don't think. [LB606]

SENATOR CAMPBELL: And I appreciate your honesty in terms of whether we need to take a look at what the definition is federally as well as it might be statewide. But, colleagues, there are a lot of people across the state of Nebraska who pay attention to what nonprofit organizations and churches and, you know, whoever fits under a tax exemption. And I used to take the complaints because they were getting a property tax exemption. And so I think we do need to be very careful about saying, well, they can do this and they can do that and they can do whatever unless we're apprised of what that definition is. And I apologize, I don't have it. But perhaps those colleagues that will follow me can shed some more light on this. But Senator Mello is raising an interesting point that we shouldn't just dismiss. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Campbell and Senator Lautenbaugh. Senator Wallman, you're recognized. [LB606]

SENATOR WALLMAN: Question. [LB606]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB606]

CLERK: 18 ayes, 10 nays to cease debate. [LB606]

SENATOR CARLSON: Debate does not cease. Senator Fulton, you're recognized. [LB606]

SENATOR FULTON: Thank you, Mr. President, members of the body. Mr. President, would Senator Mello yield to a question? [LB606]

SENATOR CARLSON: Senator Mello, would you yield? [LB606]

SENATOR MELLO: Yes. [LB606]

SENATOR FULTON: (Laugh) I'll be gentle, Senator, I promise. Senator, are you a member of Nebraskans United, I think that's the...Nebraskans United for Life, the one up in Omaha? [LB606]

SENATOR MELLO: I'm not a member, no. [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR FULTON: Do you receive mailings from them? [LB606]

SENATOR MELLO: In my senate office, legislative office I receive a newsletter, yes. [LB606]

SENATOR FULTON: Yeah, I do too. And I bring them up. I could have used, you know, Planned Parenthood on the other side of the abortion debate, could have used Lincoln Right to Life here locally. But you're not a member, yet you receive a communication from their organization. Therefore they would be included under the scope of LB606, unless we were to adopt AM1032. That's the point I'm making here. So go ahead, please respond, if you'd like. [LB606]

SENATOR MELLO: I think to some extent, Senator Fulton, I view that as a different instance because they're not sending information to my senate office 30 days before an election that clearly identifies a candidate that would otherwise not be reported to NADC. So I think that's the distinction in the sense of that information they're sending me right now as a nonclarified candidate at this point for a future election, they're sending the information to me right now. They would not have to report that information because it's not electioneering, which is laid out in LB606. [LB606]

SENATOR FULTON: Right. [LB606]

SENATOR MELLO: And if they choose to do that 30 days before an election and I am a candidate, then, yes, they would have to report the information because it's trying to influence an election. [LB606]

SENATOR FULTON: So if they were to...so let's delve into that a little bit more. If Nebraska Right to Life's PAC has endorsements and Nebraskans United for Life or Lincoln Right to Life were to report in their newsletter, please remember to vote, and for your information Nebraska Right to Life has endorsed A, B, and C, would that be considered electioneering? [LB606]

SENATOR MELLO: That would be, I think, under existing state law that has to be reported, yes, if they do that. Currently that... [LB606]

SENATOR FULTON: Not under existing state law because we don't have the electioneering provision that's brought forth in LB606. So the point I'm making here, thank you, Senator Mello. [LB606]

SENATOR MELLO: Okay. [LB606]

SENATOR FULTON: The point I'm trying to make here is there are groups out there who report, who educate, okay, legitimately so, who would fall under the purview of

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

Floor Debate  
April 14, 2011

---

LB606. Now if we were to adopt AM1032 it seems to me that we would be taking care of that concern of bringing up, you know, an organization that is reporting on something. Now the concern that Senator Avery brings up, it's legitimate, it's warranted, is that, well, then some organization could simply claim all of the members of the state of Nebraska are members of our organization. Now perhaps that could be done. If it is then it would be a blatant exploitation of a loophole in the law. What I posit to militate against that argument that Senator Avery had put forward is that if one person steps forward and says, hey, I'm not a member of this group, then it seems to me that LB606 becomes operative and this organization needs to report. Indeed, I suggest that's probably how LB606 would be invoked in the first place is if someone received something... [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR FULTON: ...objectionable that he or she did not ask for. So I understand the rationale for this bill and support it, LB606. But, as Senator Lautenbaugh has pointed out, we have to be careful, okay, when we go forward with legislation that we are not putting burdens on folks who are simply exercising free speech and not necessarily trying to influence an election, but who make reference to a candidate. Think of a newspaper article who reports that the Nebraska Farm Bureau has endorsed person X, Y and Z. Could that be considered electioneering? I don't know. That just popped in my mind thinking through this. And this is what we have to do on legislation like this. So I do support AM1032. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Fulton and Senator Mello. Senator Price, you're recognized. [LB606]

SENATOR PRICE: Thank you, Mr. President, members of the body. For those of you listening who would like to humor me, if you would go to your computers, go to Google and Google your names. I think there would be something interesting you would find out. You would find that there are Web sites out there that have your entire biography. There are places like [ballotpedia](#), [congress.org](#), [capwiz](#), [denvergov](#). So my question is, they carry your votes, they carry what you are about, they talk about issues. Would they be subject to this bill? And as I looked through the bill and I read again and I read again, you know, that's one of the great things about debate and get other people's inputs, we look at things through different viewpoints. But there is a Web site that has your positions and they put them out. I was also involved, we probably all here have been involved or written up in a Web site that [voterinfo.org](#). Now [voterinfo.org](#) asked all of our positions. They asked us a lot of questions and they compared us to the other candidates and it's out within 30 days and it's on the Internet. I don't know whether it's a 501(c)(3) or what its status is, but a lot of citizens depend on that. So the question is, would they now fall under this bill, LB606? So again, as you're listening to the debate and you look at that, this is a very large net being cast. And I would encourage

Floor Debate  
April 14, 2011

---

members to think about that and ask questions in that vein. And with that, I'd yield the remainder of my time to Senator Lautenbaugh, if he would like it. [LB606]

SENATOR CARLSON: Senator Lautenbaugh, 2 minutes and 50 seconds. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This is a rare day where I think one senator described me on this as both principled and disingenuous at the same time. So I mix that together and, I guess, I'm just kind of even-steven, down the middle there. But I do struggle in this area, obviously, and it does come up and you're probably sick of hearing about it, and I apologize for that. But we're now fighting over a loophole and the practical effects of creating a possible loophole in a bill that really doesn't accomplish very much if it passes. And so if it gets swallowed by a loophole we're not going to miss it, I guess, is what I'm saying, first of all, because it doesn't really get us anywhere. And again, why we're having this discussion and why we're talking about things and grappling with these issues is because we are treading in an area where we should not be treading. And every time we do there's a law of unintended consequences seems to come back with a vengeance in the area of campaign finance. And I don't believe...I don't even know if this bill will have much of an effect. So I don't know if there can be unintended consequences of something that doesn't really do anything. But that said, we're talking about this like this is something worth doing, and is actually going to address something. But it doesn't and it won't because the real problems we've had and we've talking about time and time again have been with the fact that we can't control money and politics, we can't keep it out of politics. And whatever we do to try to enforce and dance and nibble around the margins we make it worse. And this doesn't... [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR LAUTENBAUGH: Thank you, Mr. President. This doesn't lead lockstep to the discussion of my bill. And I'm not going to go down that road 100 percent today. But this isn't doing anything that really makes a difference. And the problem may be that we can't do anything that really makes a difference in this area. And so we should probably just stop trying and step back from the ill-advised things that we've done in the past in this area which made a difference, albeit made things worse as it went about making a difference. So again, I'm not going to stand up here and scream and yell and pound on whatever is in these red books here. But, you know, where are we going and why are we going there? I keep asking that. And I hope you're seriously thinking about it. I think this amendment improves the bill, I'm just not sure it's a bill worth improving. So that's the struggle here. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Wallman, you're recognized. [LB606]

Floor Debate  
April 14, 2011

---

SENATOR WALLMAN: Thank you, Mr. President, members of the body. This is an interesting debate here. Yesterday I heard about we want to know about labels, we want to know about this, we want to know what's in the pumps, we want to know everything. We have a right to know. I heard that. It's a product called ethanol. I heard this in this body, we have a right to know what's coming, what we buy, everything. So today we're worried about the perception of where money is coming from. We're worried about that. Should we be worried? I'll give the rest of my time to Senator Mello. [LB606]

SENATOR CARLSON: Senator Mello, if you're here, you've been yielded 4 minutes. [LB606]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And thank you, Senator Wallman, for yielding me your time. As I was just having an off-the-mike conversation and some of the conversation that Senator Fulton and myself just had, if an organization is a 501(c)(3) regardless of what that organization does and it's engaging in political activity under the IRS definitions, which is fairly concrete, they're breaking the law. So to some extent Senator Fulton's question was asking me whether or not an organization that sends a newsletter and has information about candidates or endorsements in it. If that organization paid for that newsletter using, as a 501(c)(3), using tax deductible dollars and is promoting the candidacy of a candidate, they are breaking federal IRS laws. So I want to make sure that's fairly crystal clear. It doesn't matter the organization, it doesn't matter left, right, centrist, it doesn't matter, name the issue or advocacy group. If they are a 501(c)(3) organization and are engaging in the activities that Senator Fulton has alluded to, regardless of who it is, and they're using tax deductible 501(c)(3) dollars to do that, they're breaking federal IRS law. And I know Senator Schumacher is after me, he has it pulled up and showed me the actual IRS documentation. It lays it out fairly crystal clear. I don't think that's the point of what we're trying to get at today. But I think those who have tried to muddy the waters on AM1032 of saying that this will add a significant burden to nonprofit organizations, first off, they shouldn't be engaging in this in the first place. And if they do, they're going to lose their 501(c)(3) status. And if they want to push the envelope to quasi engage in activity, then they need to take that up with their IRS lawyers because federal IRS law supersedes anything in LB606. Senator Fulton just was expressing to me that we define what electioneering is in the green copy. We do, but there is clearly defined political activity in IRS federal law that if they're engaging in that, which essentially is what they would be engaging in LB606, then we have much bigger issues here, colleagues. We have organizations that are engaging in illegal activity, trying to influence elections that they legally can't because they're using tax deductible dollars to do it. Now I know that we've had other debates in regards to the efficacy of the Campaign Finance Limitation Act, which is not what we're doing today, that is not the underlying issue or the underlying goal. I know that Senator Krist talked to me. And I see where his arguments are in this amendment. I'm concerned that it opens up a loophole that we don't need to open up for organizations. If organizations have paid membership... [LB606]

Floor Debate  
April 14, 2011

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SENATOR CARLSON: One minute. [LB606]

SENATOR MELLO: ...or have indications of people being able to say that they are a member by either signing up, sending them an e-mail saying I want to be part of your mailing list, that's clearly defined in LB606. What I'm concerned of is that this debate has now taken a different turn in regards to organizations who are technically 501(c)(3)s, if they're a 501(c)(4) they have to report that, that's a different story. I just got an e-mail about it. And if they're a 501(c)(4) they're engaging in 501(c)(4) activities, they are reported involving electioneering activity. It's different. So I just want to make sure for the record that if we discuss certain organizations and different classifications under IRS tax code that we are very crystal clear in regards to what political activity they can, as a 501(c)(4) or other organizations because 501(c)(3)s specifically cannot engage in any political activity. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Mello. (Visitors introduced.) Senator Schumacher, you're recognized. [LB606]

SENATOR SCHUMACHER: Thank you, Mr. President. Let there be light (laughter) from the IRS government Web site on charities, Google is a wonderful thing. The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations: Under the Internal Revenue Code, all Section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of, or in opposition to, any candidate for elective public office. Contributions to political campaign funds or public statements of position, verbal or written, made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violates the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of a tax-exempt status and the imposition of certain excise taxes. Certain activities or expenditures may not be prohibited depending on facts and circumstances. For example, certain voter education activities, including the presentation of public forums and publishing a voter education guide, conducted in a nonpartisan manner do not constitute prohibited political campaign activity. In addition, other activities encouraging people to participate in the electoral process, such as voter registration and Get-Out-the-Vote drives, would not be prohibited campaign activity if conducted in a nonpartisan manner. On the other hand, voter education or registration activities which evidence of bias that would favor one candidate over another, oppose a candidate in some manner or have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention. The IRS has more Web pages on this but we don't have enough time to read them all. Nevertheless, this is a summary provided by the IRS. The argument has been raised today that, you know, this probably isn't going to accomplish a whole lot and probably life will go on after this, not a whole lot different than before this. But if that argument were used to preempt and to stop the passage of laws, we would have

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

Floor Debate  
April 14, 2011

---

stopped trying to pass drug laws 30 years ago. They were using drugs 30 years ago, we passed drug laws and passed drug laws and passed drug laws, and they're still using drugs. But we keep on trying and that maybe is what life is about, to keep on trying. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Schumacher. There are no others senators wishing to speak. Senator Krist, you're recognized to close on your amendment. [LB606]

SENATOR KRIST: I'm not sure there's enough people in this body right now to take an accurate vote, so I'll ask for a call of the house and I will continue with my closing. [LB606]

SENATOR CARLSON: There's been a request for a call of the house. The question is, shall the house be called? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB606]

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call. [LB606]

SENATOR CARLSON: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Krist, do you want to proceed? The clock is running. [LB606]

SENATOR KRIST: I do, I'd like to continue, thank you. Thank you, Mr. President. And, colleagues, as you roll in, first of all, I had to promise the Speaker that I would not do any more amendments on Select File this session. So I'm making that promise publicly. Second, I want you to know that I did bring this up for similar reasons today as in yesterday, except today I'm serious about this amendment. We've talked about loopholes. I think this opens up loopholes. I'm not sure that there is clear definition of membership paid or not. I'm not sure that what we intend to do with...at least with this portion of the bill we have clearly not gone as far as we need to. I think there are some groups that present a problem and clearly in terms of accountability should be brought at least within the state into an accountability status. But I am convinced that this exception number 4 does not do what it's intended to do. And I would ask you to support AM1032. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Krist. Senator Krist, we still have one member unaccounted for. [LB606]

SENATOR KRIST: Please proceed. [LB606]

SENATOR CARLSON: Thank you. [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR KRIST: Regular machine vote. [LB606]

SENATOR CARLSON: Members, you've heard the closing on AM1032. The question is, shall it be adopted? All those in favor vote aye; all opposed vote nay. Senator Krist. [LB606]

SENATOR KRIST: Roll call vote, please, regular order. And I'll accept call-ins. [LB606]

SENATOR CARLSON: Roll call vote has been requested in regular order. Proceed, Mr. Clerk. [LB606]

CLERK: (Roll call vote taken, Legislative Journal page 1201.) 24 ayes, 14 nays on the amendment. [LB606]

SENATOR CARLSON: The amendment is not adopted. Mr. Clerk. The call is raised. [LB606]

CLERK: Mr. President, Senator Nelson would move to amend, AM1063. (Legislative Journal page 1196.) [LB606]

SENATOR CARLSON: Senator Nelson, you're recognized to open on AM1063. [LB606]

SENATOR NELSON: Thank you, Mr. President, members of the body. We've had quite a discussion so far on the previous amendment. And definitions have been discussed. I think it needs to be clear when we're introducing new legislation, new bills that the definitions are there that we're going to need to rely upon. LB606 utilizes terms similar to those found within the FEC, the Federal Election Commission, regulations. However, such terms are not independently defined under Nebraska statute. LB606 could benefit from further definition with a clarifying amendment. AM1063 brings clarification to LB606 by providing definition to undefined terms in the bill and specifying that such definition be in accordance with the federal regulations that are suggested by LB606. My amendment, AM1063, requires the NADC to promulgate regulations that mirror the definitions found under federal regulations, except where LB606 specifically creates a differing standard because the terms used in Section 3 of LB606, which define electioneering communications, rely on language borrowed from federal campaign finance law but are not sufficiently defined in our existing statute or in the bill. For example, Section 3 makes reference to a clearly identified candidate, and we talked about that earlier. Clearly identified candidate is a term of art in federal regulations but has no definition in Nebraska statute. The FEC states that a communication refers to a clearly identified candidate if it contains the candidate's name, nickname, or image, or makes an unambiguous reference to the person or their status as a candidate such as the Democratic candidate for Senate. Directing our NADC to promulgate rules and

Floor Debate  
April 14, 2011

---

regulations that apply this definition to Nebraska candidates would eliminate the ambiguity that exists if the commission or candidate committee would rely on the definition of candidate found in state statute. AM1063 preserves definitions in the bill that directly conflict with federal regulation. For example, FEC regulation maintains electioneering communications disseminated 60 days prior to a general election are subject to the reporting requirements. However, LB606 only applies to communications made within 30 days of an election. That's an example of differing standards that we have in LB606 which are clearly set out. But I would submit that because we don't define some of the terms in state statute clearly and we're adopting in essence the rules from the FEC here, that we ought to also abide by the definitions that they provide in the FEC regulations unless we specifically show otherwise in LB606. So I would urge your support of AM1063 to clarify and make more clear the definitions by using...that we have in LB606 by using the definitions that the FEC uses. I think it will help us out a great deal, especially campaigns and organizations that are promulgating information within 30 days of the...any election, help them in identifying whether they're in compliance with our law. Thank you, Mr. President, members of the body. [LB606]

SENATOR CARLSON: Thank you, Senator Nelson. Members, you've heard the opening on AM1063. There are senators wishing to speak. (Doctor of the day and visitors introduced.) Senators wishing to speak are Avery, Price, Lautenbaugh. Senator Avery, you're recognized. [LB606]

SENATOR AVERY: Thank you, Mr. President. The biggest problem with this amendment is that it cedes interpretation of Nebraska law to a federal agency. And I don't think we want to do that. It also presumes the need for rules and regulations. The legislation as drafted is adequate as it is without the need for rules and regs. If it is not, this should be left up to Nebraska to decide. It should be left up to the Nebraska agency that is charged with administering and enforcing the law. And if any rules and regs are needed,... [LB606]

SENATOR CARLSON: (Gavel) [LB606]

SENATOR AVERY: ...then it should be we who determine those rules and regs. We should not be ceding our authority to a federal agency. Another thing that this would do, it would create a lawyers relief fund in a sense because it invites endless litigation as to whether an interpretation of the law by the Accountability Commission is consistent with regulations of a federal agency. So virtually every ruling of the commission could be challenged in court. And I think we don't want that. There are many differences between LB606 and federal law. For example, the scope of communication, the federal law only applies to broadcast cable or satellite communications. And our law goes beyond that to include print communication as well. LB606 is a law that we ought to interpret ourselves, it's the law that we ought to apply ourselves without having it subject to federal interpretation. Secondly, federal law excludes other things such as any communication

Floor Debate  
April 14, 2011

---

that is disseminated through a means other than by broadcast, radio, television or satellite system. It also exempts communications by state and local candidates that do not promote, support, attack, or oppose federal candidates. And LB606 does not have these similar exceptions. Federal law has other restrictions. Before the Supreme Court case involving Citizens United, corporations of labor organizations were prohibited from making electioneering communications. But because of this case, corporations and labor organizations are now permitted to use funds to make independent expenditures and to fund electioneering communications. The FEC regulations on electioneering communications also discuss qualified nonprofit corporations who are allowed to make such communications. Nebraska law doesn't have a designation for qualified nonprofit corporations. The FEC regulations prohibit 527 organizations from making electioneering communications. Again, there are no 527 organizations recognized in Nebraska law. Currently, the FEC is in the process of changing its regulations to conform with the Citizens United case. It's unclear how long that process will take before those new regulations are adopted. So the question is, do we want the federal government to decide how we should interpret our laws? There are other differences involving disclosure requirements. Federal law requires disclosure within 24 hours after an election communication exceeds... [LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR AVERY: ...\$10,000. Thank you, Mr. President. LB606 requires disclosure within ten days of an electioneering communication expenditure of more than \$250. As you can see, there are many differences between the federal law and LB606. And although the federal law was used as a guide in helping us shape this legislation, the language in LB606 is carefully crafted to conform to existing laws in Nebraska. We do not need the federal Election Commissioner and the commission there to help us develop our regulations and tell us how we ought to interpret our own law. So I would ask you to vote no on this amendment. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Avery. Senator Price, you're recognized. [LB606]

SENATOR PRICE: Thank you, Mr. President, members of the body. Well, I didn't get up on the mike in time before the last vote. I was out checking with our Accountability and Disclosure folks and this is what I found out. The question I raised in particular with reference to the voter info guide, if they put an advertisement out like on a Web site saying, check out the voter info guide to see what your candidate...to check out the candidates, right. They would now be included under this law. When you go out on the Internet and you look at your local newspapers that are on-line, if there's an advertisement there directing people towards those clearinghouse Web sites that I brought up before, like ballotpedia, then ballotpedia would need to be reporting to the NADC here in Nebraska. I think that's somewhat problematic and that the bill doesn't

Floor Debate  
April 14, 2011

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cover a lot to do with the Internet. And I wanted the members to know this because, you know, we went ahead and checked on that. And with that, Mr. President, I yield the...my time back to you. [LB606]

SENATOR CARLSON: Thank you, Senator Price. Senator Nelson, you're recognized. [LB606]

SENATOR NELSON: Thank you, Mr. President. Senator Avery came on like gangbusters there in response to my amendment. Let me tell you a little bit about what the difference is here. We are not adopting the federal regulations on regulations on elections in its entirety at all. What I'm talking about here in AM1063 is just to use the definitions that we have in the FEC, the Federal Election Code, where we don't have clearly defined terms in this LB606. I think that Senator Avery conceded here or I mentioned that he had taken a lot of these ideas and concepts from the Federal Election Code, but not a lot of them. And I agree with that. He has used somebody...he's used the philosophy here in LB606 especially in the three exceptions that he puts in LB606. We're not ceding our authority in any way. We're not, with this amendment, inviting endless litigation if anything by using definitions or empowering our NADC here to use the definitions that are used in the regular code. We're going to cut down on the amount of litigation as to what is a candidate. For instance, let me...in the Federal Election Code, as I already said, we clearly identify what a clearly identified candidate is. The FEC states that a communication refers to a clearly identified candidate if it contains the candidate's name, nickname, or image, or makes any unambiguous reference to the person or their status as a candidate. So there you have it. You have a very good definition. What do we have in Nebraska statute? This is how we define candidate. Candidate shall mean a registered voter for whom votes may cast at any election and who either tacitly or expressly consents to be considered. How does that help us here in LB606 as far as the electioneering law and these things that are bringing in? It's entirely ambiguous, it doesn't fulfill the requirements. So what I'm saying here when we require the NADC or Nebraska entity here to promulgate regulations that mirror the definitions found under the federal regulations that's all we're saying here. If we don't have things clearly defined in our own statute here and there are questions raised, why, then let the NADC follow the definitions under the federal regulations which have been very carefully thought out because they apply to all of the states except where LB606 specifically creates a differing standard. And we do have in LB606 some differing standards, we've set those out. We're got 30 days instead of 60 days. Now that's not necessarily a definition, that's just a time period. So we are free here and we have in LB606 to set some of these things out. But we're lacking definitions of some of the terms and I just think it's important that if questions come up we are asking or we are telling the NADC to promulgate regulations that mirror the definitions under the federal definitions. So if rules have to be promulgated by NADC as Senator Avery says and we have to devise our own rules and our own standard, that's fine. The NADC should do that. And we have a process for implementing or bringing up these rules...

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

Floor Debate  
April 14, 2011

---

[LB606]

SENATOR CARLSON: One minute. [LB606]

SENATOR NELSON: ...and implementing them. But we might as well use the federal definitions if we don't want to devise any of our own. That's all we're saying here in AM1063. And I submit that this is a useful amendment, that it would be helpful to our NADC, that it would help LB606 and that's why I've gone to the time and effort to submit this amendment. And I would certainly request that you support this amendment because it doesn't detract from the bill in any way. It just gives the NADC some guidance and the ability to use definitions that have already been adopted on the federal level and serve a good purpose. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Nelson. There are no other senators wishing to speak. Senator Nelson, you're recognized to close on AM1063. [LB606]

SENATOR NELSON: Thank you, Mr. President. I think probably in the conversation that we just had, the remarks that I just made that I fairly well set forth what the intent of this is here and that in my mind and I hope the mind of all of you, my colleagues here, that it will be helpful. It doesn't make any changes in LB606, it just provides a vehicle for our NADC to use the federal definitions if we don't set them out here or in our statutes. So I strongly urge your support on this and would ask that you vote green on this amendment. Thank you, Mr. President. [LB606]

SENATOR CARLSON: Thank you, Senator Nelson. Members, you're heard the closing on AM1063. The question is, shall the amendment be adopted? All those in favor vote aye; opposed vote nay. Senator Nelson. [LB606]

SENATOR NELSON: Thank you, Mr. President. Appears we need a call of the house. [LB606]

SENATOR CARLSON: Members, there's been a request for a call of the house. Shall the house go under call? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB606]

CLERK: 25 ayes, 0 nays to place the house under call. [LB606]

SENATOR CARLSON: The house is under call. Senators, please return to the floor, the house is under call. All unauthorized personnel leave the floor. The house is under call. Senators Mello, Campbell, Schumacher, Harms, Loudon, Schilz, Ashford, Lautenbaugh, the house is under call. Senators Harms and Lautenbaugh, the house is under call. Senator Nelson, how would you like to proceed? [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR NELSON: We'll go with a roll call vote in reverse order. [LB606]

SENATOR CARLSON: Request is for a roll call vote in reverse order. Mr. Clerk, please proceed. [LB606]

CLERK: (Roll call vote taken, Legislative Journal pages 1201-1202.) 15 ayes, 16 nays on the amendment. [LB606]

SENATOR CARLSON: The amendment is not adopted. Mr. Clerk. I raise the call. [LB606]

CLERK: Mr. President, Senator Christensen would move to reconsider the vote on the Krist amendment, specifically AM1032. [LB606]

SENATOR CARLSON: Senator Christensen, you're recognized to open. [LB606]

SENATOR CHRISTENSEN: Thank you, Mr. President. I apologize, colleagues, I come in here late. I didn't hear the call of the house; I was out visiting with some other people in the back. And I support that, I think it is important that we have that Senator Krist's amendment on there. I would like to have the body consider bringing this back so I can add my vote on there to be the 25th one. [LB606]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Avery, you're recognized. [LB606]

SENATOR AVERY: Thank you, Mr. President. I'm going to oppose this reconsider motion and I'll do it for the same reason that I opposed the amendment. This amendment creates a gaping hole, loophole in the proposed law. And I'll give you the example again and I hope Senator Christensen will pay attention to this because this is important. If we strike the language that's being proposed in AM1032 there is nothing to stop a group from defining its membership in any way they want because they don't have to be dues-paying, they don't have to have any written evidence that they desire to be an member, like an e-mail response or something of that sort. They can define their membership anyway they want. And they can say District 44 comprises my membership and then engage in electioneering communication without reporting. It is a killer amendment, it cuts a hole in the heart of this bill and makes it impotent. Now if that's what you want, you want to pass a law that has no meaning, has no teeth, and has a loophole big enough that you can literally do anything you want, then I would say, yeah, reconsider, vote again. And if you do that and you put this amendment on then the bill means nothing. The way the bill is drafted right now has been carefully constructed. I am willing, if you can get this past Select File, I'm willing to talk to Senator Christensen and others who may have some legitimate interests and legitimate complaints. And I would be willing to see about, on Final Reading, taking it back to Select File for a

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

Floor Debate  
April 14, 2011

---

specific amendment. But if the objective here is to avoid reporting, if the objective here is to say, oh, I like reporting until it's time for my group to report, then I oppose that. That's not good public policy. It's not good public policy to say, well, I want your groups to report but not mine. So I think that when you say that membership can be defined anyway you want and that's what this amendment does, it just says, member, you don't even have to define it at all, you can expand it as far as you want, everybody in the state is a member of my organization, I can send any electioneering communication I want as often as I want and never have to report. This is all about transparency, which I have said in here before is the bedrock of our democracy, it's the way we have accountability to the public. Without accountability you undermine the legitimacy of our institution, the legitimacy of our political procedures, people lose confidence in what we do because they don't trust the way we do it and that is important. So I oppose this reconsider motion and hope that you will join me. Thank you. [LB606]

SENATOR CARLSON: Thank you, Senator Avery. Senator Christensen, you're recognized. [LB606]

SENATOR CHRISTENSEN: Thank you. I'm going to lift the reconsideration at this time and then bring it back on Final. Thank you. [LB606]

SENATOR CARLSON: Are there objections? Seeing none, so ordered. Mr. Clerk. [LB606]

CLERK: Mr. President, at this time I have nothing further on the bill. [LB606]

SENATOR CARLSON: Senator Harr for a motion. [LB606]

SENATOR HARR: Thank you, Mr. President. Your Honor, or Your Honor--going back to my court days, (laughter)--it's because I look up to you. Mr. President, I move that the E&R amendments to LB606 be adopted. [LB606]

SENATOR LAUTENBAUGH: Board vote. [LB606]

SENATOR CARLSON: There's been a request for a board vote. [LB606]

SENATOR HARR: I'd like to correct the record. Mr. President,...I miss Senator Larson, Mr. President, I move that LB606 be advanced to E&R for engrossing. [LB606]

SENATOR CARLSON: Members, you've heard the motion. Senator Lautenbaugh has requested a board vote. Question is, shall LB606 be advanced to E&R for engrossing? All in favor vote aye; all opposed vote nay. Senator Avery. [LB606]

SENATOR AVERY: I request a call of the house. [LB606]

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

Floor Debate  
April 14, 2011

---

SENATOR CARLSON: There's been a request for a call of the house. Shall the house go under call? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB606]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB606]

SENATOR CARLSON: The house is under call. Senators, please return to the Chamber. The house is under call. All unauthorized personnel leave the floor. The house is under call. Senators Cornett, Gloor, Sullivan, Ashford, Krist, the house is under call. Senator Avery, how would you like to proceed? [LB606]

SENATOR AVERY: Roll call vote, roll call vote in regular order. [LB606]

SENATOR CARLSON: Mr. Clerk, please proceed. [LB606]

CLERK: (Roll call vote taken, Legislative Journal pages 1202-1203.) [LB606]

SENATOR CARLSON: (Gavel) [LB606]

CLERK: 20 ayes, 7 nays on the motion to advance the bill, Mr. President. [LB606]

SENATOR CARLSON: LB606 does not advance. Mr. Clerk. The call is raised. [LB606]

CLERK: Mr. President, the next bill, LB283. Senator Harr, I have Enrollment and Review amendments pending. (ER62, Legislative Journal page 962.) [LB283]

SENATOR CARLSON: Senator Harr for a motion. [LB283]

SENATOR HARR: Thank you, Mr. President. I move the E&R amendments to LB283 be adopted. [LB283]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB283]

CLERK: Mr. President, Senator Fulton would move to amend the bill with AM933. (Legislative Journal page 1059.) [LB283]

SENATOR CARLSON: Senator Fulton, you're recognized to open. [LB283]

SENATOR FULTON: Thank you, Mr. President, members of the body. To refresh your memory, this was a bill by Senator Haar and I had some concerns with the bill. We talked on the microphone about making some clarifiers that would tighten up the language such that the intention here is followed. I don't know for certain where I am on

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

Floor Debate  
April 14, 2011

---

the bill, but I do know that AM933 would improve things. So I have talked to Senator Haar and I believe he's supportive of the amendment. It's pretty straightforward. We are on page 7, lines 9 and 10, just as amendment reads. I won't reread it. So I think AM933 improves the situation by making clearer what the intention of the Legislature is in allowing school districts to apprehend this new authority with respect to the property tax utilization toward energy projects. With that, I will close, Mr. President, just with the asking of AM933 to go forward. Thank you, Mr. President. [LB283]

SENATOR CARLSON: Thank you, Senator Fulton. Members, you've heard the opening on AM933. Senator Ken Haar, you're recognized. [LB283]

SENATOR HAAR: Mr. President, members of the body, I want to thank Senator Fulton for the amendment. It does clarify the language. Originally, we had just sort of cut and pasted for energy efficiency. But Senator Fulton's language does improve on that language. We support the amendment and it addresses concerns raised on General File about the broadness of the language for energy efficiency. I urge you to vote AM933 and to advance the bill. Thank you. [LB283]

SENATOR CARLSON: Thank you, Senator Haar. There are no other lights on. Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question is, shall AM933 be adopted? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB283]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB283]

SENATOR CARLSON: AM933 is adopted. [LB283]

CLERK: I have nothing further on the bill, Senator Harr. [LB283]

SENATOR CARLSON: Senator Harr for a motion. [LB283]

SENATOR HARR: Thank you, Mr. President. I move that LB283 be advanced to E&R for engrossing. [LB283]

SENATOR CARLSON: Senator Fulton, for what purpose do you rise? [LB283]

SENATOR FULTON: Wanted to address the body and ask Senator Haar a question. [LB283]

SENATOR CARLSON: Senator Harr, would you... [LB283]

SENATOR HARR: Yes, I will. [LB283]

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

Floor Debate  
April 14, 2011

---

SENATOR FULTON: Senator Ken Haar, if he could yield to a question. [LB283]

SENATOR CARLSON: Senator Ken Haar, will you yield? [LB283]

SENATOR HAAR: Yes. Yes, Senator Burke Harr is always creating confusion. [LB283]

SENATOR FULTON: Okay. The concern that I had before and the amendment, thank you for adopting the amendment. The amendment does improve the bill, I think. It makes it more clear. What I think I'll do here is just express my concern and then leave it to Senator Haar to, you know, respond. The concern that I have is that if there is a project that a school district wants to conduct, utilize for energy improvement that indeed this could be an opportunity to apprehend more property taxes outside the levy limit. And so that's where my concern lies. If indeed a school district could do this outside the levy limit without a vote of the people. So I think that this language in the amendment we adopted clarifies things, but the concern remains. Perhaps it doesn't need to remain on my part. And so with that, I will yield the remainder of my time to Senator Haar, Senator Ken Haar. [LB283]

SENATOR CARLSON: Senator Haar, 4 minutes and 20 seconds. [LB283]

SENATOR HAAR: Thank you very much, Senator Fulton. As I said, when this came up on General File it's no new bonding authority, it's no new levy limit. But it does add an allowed expenditure for energy efficiency. And it does add flexibility to what school boards could QCPUF for. And indeed the very nature of QCPUF is that it is a 5.2 cent levy, the bond payments are outside the \$1.05 levy limit, no vote of the people is required. So this would be up to the school board to make this decision. Also, there's a ten-year limit on the bonds, no affect on TEEOSA whatsoever. As I introduced LB283, I talked about that really the whole concept of green schools is about a healthier place for children including air quality and lighting and it saves money, it saves money over the long-term. Now under QCPUF currently you could, for example, use it for air quality but it does not allow for lighting improvements. And lighting improvements are one of the really important things that a school board might decide to do for the children. Research shows that children with good air quality and good lighting perform better, they're healthier, and they're happier. And so I would say to Senator Fulton, yes, this is a new purpose, a new allowed expenditure under QCPUF and the decision would be up to the school board, which I consider again to be that local control component. Thank you very much. [LB283]

SENATOR CARLSON: Thank you, Senator Haar. (Visitors introduced.) Senator Pirsch, you're recognized. Senator Pirsch waives. There are no other senators wishing to speak. Senator Haar. [LB283]

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

Floor Debate  
April 14, 2011

---

SENATOR HAAR: I would move to advance the bill to E&R for engrossing. Thank you. [LB283]

SENATOR CARLSON: Members, you've heard the motion. All those in favor say aye. Opposed, nay. The bill is advanced. Mr. Clerk. [LB283]

CLERK: Mr. President, LB479. I have no amendments to the bill. [LB479]

SENATOR CARLSON: Senator Burke Harr for a motion. [LB479]

SENATOR HARR: Thank you, Mr. President. I move that LB479 be advanced to E&R for engrossing. [LB479]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill advances. Mr. Clerk. [LB479]

CLERK: Mr. President, the next bill, LB176. Senator Harr, I have Enrollment and Review amendments. (ER73, Legislative Journal page 1045.) [LB176]

SENATOR CARLSON: Senator Harr, for a motion. [LB176]

SENATOR HARR: Thank you, Mr. President. I move that the E&R amendment to LB176 be adopted. [LB176]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB176]

CLERK: I have nothing further on that bill, Senator. [LB176]

SENATOR CARLSON: Senator Harr for a motion. [LB176]

SENATOR HARR: Thank you, Mr. President. I move that LB176 be advanced to E&R for engrossing. [LB176]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. LB176 does advance. Mr. Clerk. [LB176]

CLERK: Mr. President, LB279, no Enrollment and Review. Senator Karpisek, first of all, Senator, I have AM1123 with a note you want to withdraw that amendment. [LB279]

SENATOR KARPISEK: I do, Mr. Clerk. [LB279]

CLERK: Mr. President, Senator Karpisek would move to amend with AM1173.

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

Floor Debate  
April 14, 2011

---

(Legislative Journal page 1178.) [LB279]

SENATOR CARLSON: Senator Karpisek, you're recognized to open on your amendment. [LB279]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. AM1173 was brought to me by Bill Drafters during E&R. The intent of the bill has always been to protect all wholesalers and this amendment clarifies that the bill applies to both liquor and beer wholesalers. I believe that this amendment will make the provisions within the Liquor Control Act easier to understand. And with that, I ask that you adopt AM1173 and advance the bill. Thank you, Mr. President. [LB279]

SENATOR CARLSON: Thank you, Senator Karpisek. You've heard the opening on AM1173. Are there senators wishing to speak? Seeing none, Senator Karpisek, you are recognized to close. Senator Karpisek waives closing. The question is, shall AM1173 be adopted? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB279]

CLERK: 30 ayes, 1 nay, Mr. President, on the adoption of Senator Karpisek's amendment. [LB279]

SENATOR CARLSON: The motion is adopted. [LB279]

CLERK: Senator Harr, I have no further amendments to the bill. [LB279]

SENATOR CARLSON: Senator Harr for a motion. [LB279]

SENATOR HARR: Thank you, Mr. President. I move that LB279 be advanced to E&R for engrossing. [LB279]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB279]

CLERK: Mr. President, LB600, I do have Enrollment and Review amendments, Senator. (ER79, Legislative Journal page 1069.) [LB600]

SENATOR CARLSON: Senator Harr for a motion. [LB600]

SENATOR HARR: Thank you, Mr. President. I move that the E&R amendments to LB600 be adopted. [LB600]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. All in favor say aye. Opposed, nay. Motion carried. [LB600]

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

Floor Debate  
April 14, 2011

---

CLERK: Senator Campbell would move to amend with AM1208. (Legislative Journal page 1196.) [LB600]

SENATOR CARLSON: Senator Campbell, you're recognized to open. [LB600]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, this amendment is a purely technical amendment to satisfy the concerns brought forward by the DAS budget and the department to clarify operating procedures and how the money would go into the fund and then back to the care facility providers. Both trade associations have worked so diligently on this bill, are fully on board. And all parties are in agreement that we need this technical amendment. Thank you, Mr. President. [LB600]

SENATOR CARLSON: Thank you, Senator Campbell. You've heard the opening on AM1208. Senator Hadley, you're recognized. [LB600]

SENATOR HADLEY: Mr. President, members of the body, would Senator Campbell yield to a question? [LB600]

SENATOR CARLSON: Senator Campbell, would you yield? [LB600]

SENATOR CAMPBELL: Yes. [LB600]

SENATOR HADLEY: Senator Campbell, I just want to make sure that we have the intent of this bill clearly put forth when we go through it. Is it your intent that this bill would be...that the funds realized through the Nursing Facility Quality Assurance Assessment Act, which this bill is, be used to enhance and not supplant the state's otherwise reimbursement of nursing facilities participating in the Nebraska Medicaid program? [LB600]

SENATOR CAMPBELL: Senator Hadley, Mr. President, is it okay to proceed? [LB600]

SENATOR CARLSON: Yes, you yielded. [LB600]

SENATOR CAMPBELL: Oh, okay, thank you. Senator Hadley, thank you for the question. And I appreciate that you spoke to me off the mike. In any of the conversations that I have had with the department and the budget people or any, it's clearly the intent that the situation that you have laid out for the record is entirely correct. [LB600]

SENATOR HADLEY: Thank you, Senator Campbell. I just want to remind the body that we passed LR, last year, to be sure that we...LB701 last year where we worked with the ICF/MRs. And I wanted to be clear in the intent is that these not be used to supplant

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

Floor Debate  
April 14, 2011

---

state funds. Thank you, Mr. President. [LB600]

SENATOR CARLSON: Thank you, Senator Hadley. Seeing no other senators wishing to speak, Senator Campbell, you're recognized to close on your amendment. Senator Campbell waives closing. The question is, shall AM1208 to LB600 be adopted? All in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB600]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Campbell's amendment. [LB600]

SENATOR CARLSON: AM1208 is adopted. [LB600]

CLERK: Senator Harr, I have nothing further to the bill. [LB600]

SENATOR CARLSON: Senator Harr for a motion. [LB600]

SENATOR HARR: Thank you, Mr. President. I move that LB600 be advanced to E&R for engrossing. [LB600]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Mr. Clerk. [LB600]

CLERK: Mr. President, LB600A. Senator Harr, I have no amendments to the bill. [LB600A]

SENATOR CARLSON: Senator Harr for a motion. [LB600A]

SENATOR HARR: Thank you, Mr. President. I move that LB600A be advanced to E&R for engrossing. [LB600A]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Mr. Clerk. [LB600A]

CLERK: Excuse me. Mr. President, the next bill. Senator Harr, I have Enrollment and Review amendments to LB648. (ER80, Legislative Journal page 1069.) [LB648]

SENATOR CARLSON: Senator Harr for a motion. [LB648]

SENATOR HARR: Thank you, Mr. President. I move that the E&R amendments to LB648 be adopted. [LB648]

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

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

Floor Debate  
April 14, 2011

---

Opposed, nay. Motion carried. [LB648]

CLERK: Mr. President, Senator Janssen would move to amend, AM1142. (Legislative Journal page 1139.) [LB648]

SENATOR CARLSON: Senator Janssen, you're recognized to open on your amendment. [LB648]

SENATOR JANSSEN: Thank you, Mr. President, members. We adopted the language of AM1142 unanimously last month as an amendment to LB95. Since consideration of LB95 has been postponed this session, I'm offering AM1142 to LB648 with the permission of Senator Christensen, which I appreciate, and also Senator Campbell's help. AM1142 would permit a child-caring agency to be organized as a corporation or limited liability company. Presently, a child-caring agency's only option for organization is as a corporation. I've been made aware that some child-caring agencies would like the option to be organized as limited liability companies. The original statute defining child-caring agency was established before Nebraska created and defined limited liability companies. LLCs are now common...a common form of organization. If child-caring agencies would like to be an LLC, I think it's appropriate to permit them to do so. Thank you, Mr. President. [LB648 LB95]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Senator Janssen. Members, you've heard the opening to AM1142. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR149, LR150, LR151, LR152, LR153, and LR154. Mr. Clerk. Returning to discussion on AM1142, there are no lights on. Senator Janssen, you're recognized to close on AM1142. Members, the question before the body is, shall AM1142 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB648 LR149 LR150 LR151 LR152 LR153 LR154]

CLERK: 27 ayes, 0 nays, Mr. President, to adopt Senator Janssen's amendment. [LB648]

SPEAKER FLOOD: Senator Janssen's amendment is adopted. Mr. Clerk, items for the record. [LB648]

CLERK: Mr. President, amendments to be printed: Senator Fischer, an amendment to LB84; Senator Campbell to LB177. And a new A bill. Senator Lathrop offers LB525A. (Read by title for the first time. Legislative Journal pages 1204-1206.) [LB84 LB177 LB525A]

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

Floor Debate  
April 14, 2011

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Finally, Mr. President, a priority motion. Senator Nelson would move to adjourn the body until Monday morning, April 18, at 10:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel)