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Floor Debate
April 13, 2011

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-third day of the One Hundred Second Legislature, First Session. Our chaplain for today is the senator from Valentine, Senator Fischer. Please rise.

SENATOR FISCHER: (Prayer offered.)

SPEAKER FLOOD: Thank you. I call to order the sixty-third day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, I have neither corrections, reports, or announcements, or anything else for that matter at this time.

SPEAKER FLOOD: Thank you, Mr. Clerk. Seeing none, we now move on to the first item on the agenda, General File appropriations bill, LB637A from Senator Adams. Mr. Clerk. [LB637A]

CLERK: Mr. President, LB637A is by Senator Adams. [LB637A]

SPEAKER FLOOD: (Gavel) [LB637A]

CLERK: (Read title.) [LB637A]

SPEAKER FLOOD: Senator Adams, you're recognized to open on LB637A. [LB637A]

SENATOR ADAMS: Thank you, Mr. Speaker. Members, LB637A, if you recall, was up on General File last week. It is a committee priority bill and it deals with higher

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education. But towards the end of the discussion, Senator Avery introduced an amendment on behalf of the Nebraska State Board of Education which would allow a pilot program over the next three years using ACT in the 11th grade in seven different school districts across the state in place of the statewide assessment. And, obviously, there is an appropriation that comes with that for that pilot program and what this bill does is to simply allocate \$160,000 from unused lottery dollars for two years to pay for this pilot program using the ACT. That's the essence of the amendment and the appropriation. Thank you, Mr. President. [LB637A]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening on LB637A. There are no members wishing to speak. Senator Adams is recognized to close. Senator Adams waives his opportunity. The question for the body is, shall LB637A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk. [LB637A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB637A. [LB637A]

SPEAKER FLOOD: LB637A advances to E&R Initial. We now proceed to Select File, 2011 senator priority bills, LB235. Mr. Clerk. [LB637A LB235]

CLERK: Senator Larson, I have Enrollment and Review amendments first of all, Senator. (ER81, Legislative Journal page 1123.) [LB235]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB235]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB235 be adopted. [LB235]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB235]

CLERK: Mr. President, Senator Adams would move to amend with AM1182. (Legislative Journal pages 1183-1185.) [LB235]

SPEAKER FLOOD: Senator Adams, you're recognized to open with AM1182. [LB235]

SENATOR ADAMS: Thank you, Mr. Speaker. Members, this amendment...and first of all, I'll digress for just a second. I'm sure you're all aware LB235 is the TEEOSA bill for this biennium, and what AM1182 does is make technical corrections. It doesn't change the numbers that you've been looking at. We don't change any of the mechanisms that we discussed on General File. All we're doing is making some technical corrections with one exception. The one substantive change that we're making is extending out into the '16, '17 school year the budget lid exclusion for any increase in retirement contributions

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that may occur. Senator Nordquist and the Retirement Committee may be coming forward later on with an increased contribution to retirement on behalf of the school districts. If that occurs, then what this language would do would simply allow the school districts to then exclude that increase above their budget lid. That's the amendment, Mr. Speaker. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening on AM1182. There are no lights on. Senator Adams is recognized to close. Senator Adams waives his closing. The question before the body is, shall AM1182 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB235]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment to the bill. [LB235]

SPEAKER FLOOD: AM1182 is adopted. Mr. Clerk. [LB235]

CLERK: Mr. President, Senator Krist would move to amend with AM1192. (Legislative Journal page 1185.) [LB235]

SPEAKER FLOOD: Senator Krist, you're recognized to open on AM1192. [LB235]

SENATOR KRIST: Well, good morning, Mr. President and colleagues. I want to bring this amendment forward because I think it's valuable to consider all the options. AM1192 simply does this. I've provided you all a handout and I would ask you to look at it. It is labeled A4 on the top right-hand corner. On the "General Fund Levy" column, which is the last column, we see the appropriate level of taxation that's going into the school programs. What this amendment does is, anyone who is not doing their "fair share" of at least one, gives away LB235 money. That's a savings to the TEEOSA and to the state of \$112,639,839. We've had an incredible amount of discussion about judging the local subdivisions in terms of whether they were doing what we thought they could do before we gave them more tools to do something else. We've had a discussion on the mike since the beginning of this session about trying to control those local subdivisions and changing tax policy, and the uniform tax policy, revenue policy, one bill at a time. So I want you to consider what this does. It again says, if you're not doing your fair share, if you're not paying a dollar, then you lose your funding under LB235. Essentially, it's doing the same thing we discussed yesterday. It's saying if your levy cap is not where we think it should be, then you can't use the additional tools that we will give you. Is this the direction we want to go? I think it's worth a discussion because I think that \$112,639,839 would be well spent in our rainy day fund to assist in road construction, to do other things. This is not about kids or concrete. This is about us controlling our local subdivisions, political subdivisions, and telling them what they must do to do their fair share. So once again, AM1192 simply says, if you're not doing your fair share in the last column under "General Fund Levy," then you lose your funding

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under LB235. And that number again is \$112,639,839 and some change. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Krist. Members, you've heard the opening to AM1192. We now continue with discussion. Senator Adams, you are recognized. [LB235]

SENATOR ADAMS: Thank you, Mr. Speaker. Members, I don't support this amendment and I've shared that with Senator Krist and he did give me the courtesy to give me a bit of forewarning that this was headed here. I don't support it, and let me begin for very parochial reasons. The committee has worked long and hard putting LB235 together. And as I told you on General File, we are balancing at a very delicate point between trying to spread the pain of these cuts as fairly as we possibly can. This significantly tips that balance. Now I understand in my discussions with Senator Krist that he has other reasons for bringing this, and has topics that he wants to talk about. So be it. We have that right as senators on these bills as they come in. But let me reiterate, LB235 is critical. It's critical to the 251 school districts, it is critical to this body, it is critical to the appropriation and the budget process. I don't support this amendment. It tips that balance. And we have school districts out there that are below a dollar. And we've got school districts out there that, as a result of double-digit valuation growth, declining student enrollment, and our General Fund cuts, are not going to be getting equalization aid anymore, and to do this on top of that exasperates the circumstance. So I do not support this amendment. Thank you, Mr. Speaker. [LB235]

SPEAKER FLOOD: Thank you, Senator Adams. Senator Conrad, you are recognized. [LB235]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I rise in support Senator Krist's amendment and the legitimate issues that it brings forward in the context of this debate. It's been said that the only thing that costs more than education today is the lack of it. And, colleagues, you've heard me talk many, many, many times about how when we forget our priorities, our state constitution gratefully is there to remind us. And indeed, our state constitution sets forward the fact that providing adequate resources to our school districts, to our schools, to our students' teachers, and the families who rely upon them, is our most important job here in the Nebraska Legislature. And on General File I was hopeful that we would be able to leave the door open to additional negotiation and additional ideas to be brought forward to try and mitigate some of the cuts contained in LB235, not just because of their impact on the Lincoln Public School districts but because of their impact indeed statewide in every community. And I firmly, firmly believe that, with all due respect to the very hard, diligent work that the Education Committee conducted in crafting this proposal, we need to take the time, and we have the time left within this session, to go back, to go back from the Appropriations Committee perspective to look harder, to look deeper, to see if we can't

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find additional resources to make available for state aid to education funding that would benefit all districts. There are a few opportunities to do that. We know that there are some cash transfers that have been left within the budget before we finalize that could provide some additional resources. We've also all seen the media reports about additional revenues and receipts coming in. And then, of course, we'll have another forecast meeting before the end of session and indeed at the end of this month which can help to provide a better picture about where our revenues and finances are. And I believe that we should really wait until that moment in time so that we can provide every resource we have available within our grasp to meet our most important obligation, which is a strong, quality public education. Just for illustration purposes, and again, thankfully, we have such strong leadership at Lincoln Public Schools not only in the administration office but also each and every member of our local board of education, and a fantastic set of faculties and families who care deeply about these issues as well, in real terms, the \$14 million cut that is part of the proposal contained in LB235, based on conservative estimates given to me by a local school board member, that roughly equates to 280 teachers. Think about that. That's 280 teachers. It's particularly frustrating to know that that is the gravity of the issues that we are talking about as we navigate through this fragile economic recovery. Again I have great confidence in our local leadership to keep these cuts as far away from the classroom as possible, but I do think it is important that we at least have a clear example of what the issues are we are talking about. When you compare this cut, the impact to Lincoln Public Schools... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR CONRAD: Thank you, Mr. President. When you compare that cut with the fact that we've seen a significant growth in student population, 950 students in the 2009-2010 school year, 907 students for the 2010-2011 school year, and then look at this impact, that growth is enormous. In fact, that growth is larger than many districts that are part of our unique and varied tapestry across this great state. So I think as we move forward, we need to take the time to ensure that we can provide the resources that all school districts need to help our students succeed and prosper because it's critical to our future. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Conrad. Senator Pahls, you're recognized. [LB235]

SENATOR PAHLS: Thank you, Mr. President and members of the body. And I can assure Senator Adams, there's no way am I trying to be a thorn in your side at all. I'm doing this for other reasons. And I would like to address a question or two to Senator Krist, please. Senator Krist. [LB235]

SPEAKER FLOOD: Senator Krist, will you yield to a question from Senator Pahls?

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[LB235]

SENATOR KRIST: Yes, sir. [LB235]

SENATOR PAHLS: Thank you for the handout today and I just want you to walk me through it so I have a better concrete understanding of what you are all about. And I'm going to have you refer to page 3 of the 9-page, number 3. [LB235]

SENATOR KRIST: Yes, sir. [LB235]

SENATOR PAHLS: And I'm just going to walk through the school system and see what you're really trying...the point you're trying to get across. And I actually...I'm using Omaha since it has the largest amount of money. Just walk me through why I should want to support what you're saying. I'm looking at the "Formula Needs," the state aid. What are you asking me to be for? [LB235]

SENATOR KRIST: Okay. In my opening, I guess I went through it too fast, but the "General Fund Levy," which is the last column... [LB235]

SENATOR PAHLS: Yes. [LB235]

SENATOR KRIST: ...speaking specifically to Omaha Public Schools... [LB235]

SENATOR PAHLS: Which is? [LB235]

SENATOR KRIST: 1.0622. [LB235]

SENATOR PAHLS: Okay. [LB235]

SENATOR KRIST: Come back four columns prior and you'll have labeled "LB235 Model Total Calculated State Aid." It's \$156,968,477. [LB235]

SENATOR PAHLS: Right. [LB235]

SENATOR KRIST: If a school district or a city does not do its fair share, that is their General Fund levy is not 1 or better, it loses the LB235 calculated funds. So if Omaha had been .9, been below 1, it would have lost \$156 million. [LB235]

SENATOR PAHLS: Okay, so then...and I appreciate that. Thank you. That did make things clearer for me. So as I look down and those districts that are over the 1.0 would fare okay. Any district below the 1, like the starting with .9, that would affect them. [LB235]

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SENATOR KRIST: That's correct. They would lose their LB235 monies and, as I said, that adds up to \$112 million. [LB235]

SENATOR PAHLS: Okay. So as I peruse the list of schools, I can see those schools that would, like you say, would lose money, and the point I'm trying to get across in our other discussions that we have had on the floor like yesterday when the Chair of Appropriations stood up and said, you know, we need to be very careful, etcetera, etcetera, etcetera, I would ask him to take a look at some of his particular schools in his district and see whether they go above the 1. The reason why I'm saying that is, I voted against giving the additional tax spending authority yesterday as I still believe that. And I think the part of the argument they were giving, well, you need to spend up to your...the amount possible before you'd even think about that. I'm against giving that taxing authority, but I think that same philosophy bears out on everything. Again, as I've said in the past, I'm looking for fairness across the state. That's some of the information I handed out to you in the last day or so is to take a look at what the contributions of the cities and the counties across the state of Nebraska. So when you say, gee, it looks like one county or one school system is getting a large amount, it's a corresponding expenditure because they are contributing... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR PAHLS: Thank you. They are contributing money. Let's take a look at that. And even on the future bills, in a little bit we're going to be looking at a bill or two, I'm willing to vote for that bill because I think it's...those bills because we need for the state of Nebraska, that we need to...it has to have a reverse effect. And there's that sense of balance, I think, that we're losing. And that's all I'm asking. Again, I like your idea, Senator, because I think it makes us think. But I also know that Senator Adams and his committee...they've worked diligently on trying to make what's best for the state of Nebraska. So I will support what Senator Adams is all about. I like what you're doing because I think you're requiring us to do some thinking outside the box and realize that we are a total body, not just that district that we represent. So I'm asking for that same thinking. [LB235]

SPEAKER FLOOD: Time, Senator. [LB235]

SENATOR PAHLS: Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Avery, you are recognized. [LB235]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I do not support this amendment and I would be surprised if anybody on the Education Committee does. We spent so many hours, so many days and weeks talking about

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what we were going to do with LB235. I think this would undo a lot of that hard work. Senator Adams is right. It does tip the balance. I think also it upsets the rather delicate integration of the various elements of the formula. When you change one part of the formula, you affect all other parts of the formula. And you should be reminded that we already in the formula penalize school districts that fail to levy up to 95 percent of the levy authority. That's already a part of the formula. So we take into account, the principle at least, that school districts ought to be levying up to their...at least one dollar or higher. And when we find that that's not taking place, then there is a provision in the formula to penalize those districts. I would also point out that we lowered that number to 95 percent this year from 100 percent in order to capture some savings. I believe we've done it in previous years as well when it was necessary. The big issue here, though, is fairness to all districts. Passage of this amendment would plunge the formula into chaos and the entire TEEOSA funding would be, I believe, a disaster. I don't think this is something we ought to be doing, and I hope that you will agree with me on that. One question that comes to mind is, what do you do with those districts, and there are many of them, who levy above 100 percent? What do you do with those? Then should they be rewarded for this behavior and be given a share of this \$112 million, or do you take that \$112 million and do you put it into Cash Reserve? Think about this: \$112 million off \$822 million puts us below where we were in General Fund allocations in the last biennium for K-12. And I don't think that's something we ought to be doing. I certainly don't think that's something we should want to do. We're already having to make tough decisions on school funding and this, to me, would be untenable. It would put some districts in a situation that they could not cope with it. Most of the districts are already planning their budgets based upon what they have seen on General File discussion of LB235. This is a radical departure from what the committee recommended to this body, and I think it's bad policy, and I hope that you will agree with me and vote red on this amendment. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Avery. Senator Louden, you are recognized. [LB235]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. As I look at this, I try to understand to see what we're trying to do here. I was wondering would Senator Krist yield for a question. [LB235]

SPEAKER FLOOD: Senator Krist, will you yield to a question from Senator Louden? [LB235]

SENATOR KRIST: Yes, sir. [LB235]

SENATOR LOUDEN: Senator, as I look at this, then this would affect all districts that have less than the levy limit, is that all over the state of Nebraska, and what is that levy limit right now? Is that \$1 or \$1.05 or \$.95? [LB235]

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SENATOR KRIST: I think you'd have to refer that question to a member of the committee. I was only looking at leveling in terms of the equality. One is about where I set the limit. I supposed I could have said anybody who is less than the total cap. I believe it's 1.5, but you'd have to refer that question to Senator Adams to make sure. [LB235]

SENATOR LOUDEN: Okay. Then does this just affect school districts that are involved in a learning community or all school districts across the state of Nebraska? [LB235]

SENATOR KRIST: All school districts across the state of Nebraska. And I'd like to take this opportunity, if I could, as I added this up with my calculator, I came up with the number I gave you. As my staff just informed me when they ran it through the computer, the actual number is \$89,913,207. So let's just use \$90 million. I was off by a couple... [LB235]

SENATOR LOUDEN: Well, yeah, I think there's...my understanding is there's like 90-some districts that are unequalized. Now when I looked at this other handout that you have here, and it says "LB235 Model Total Calculated State Aid," now when that total calculated state aid, is that your TEEOSA funding, or does that include your state apportionments and other state aids? My understanding, when you say total state aid that includes the state apportionment and some of your benefits from school land lease and that sort of stuff in your total state aid. So would you lose all of that with the bill that you were talking about if you were under this \$1.05? [LB235]

SENATOR KRIST: Senator Adams is shaking his head yes, so I'm assuming that that is correct, Senator. [LB235]

SENATOR LOUDEN: Okay, because those unequalized districts, that's the only state aid they have is their state apportionment and their in-lieu-of school land tax and that sort of stuff. You take that away from it, I mean, my Lord, you'll talk about civil war because those school districts have received that since the time they've had school districts. [LB235]

SENATOR KRIST: Senator, if I could answer that, that's precisely my point. If we're ready to tell the municipalities and political subdivisions that they're not doing their fair share in other areas, then we should also be looking at all those school districts and saying, if you're not doing your fair share then you can't get a piece of the pie. [LB235]

SENATOR LOUDEN: Well, then let's...then what do you call fair share? Because in the way your bill is drafted or your amendment is drafted, it wouldn't affect the Omaha school districts or the Douglas County school districts because they're all up above \$1. Is that right? [LB235]

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SENATOR KRIST: Absolutely. [LB235]

SENATOR LOUDEN: Wouldn't affect them. [LB235]

SENATOR KRIST: Absolutely. That's correct. [LB235]

SENATOR LOUDEN: They would get their state aid? [LB235]

SENATOR KRIST: Absolutely. [LB235]

SENATOR LOUDEN: And they're already...I'm having problems with my districts out there that are getting anywhere from a 15 to 20 percent cut in their state aid, and I look at the percentage of the Omaha or Douglas County school districts and the most that any of them get is a 5 percent cut in state aid. So I've already got a problem with how our state aid is handed. It's been perceived that perhaps the Douglas County school districts are getting more than their fair share now. So if this amendment goes in, they would actually get more and the districts...school districts in my legislative district would get less. [LB235]

SENATOR KRIST: And if I could just comment on that. [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR KRIST: One of the reasons that I put that legislation in is to help everybody think about that issue because yesterday Senator Heidemann, Senator Utter, and others wanted to make a point of the fact that Omaha wasn't doing their fair share in another area so they weren't going to get a piece of the other kind of pie. And that's why this bill is in place. [LB235]

SENATOR LOUDEN: But my concern is, is Omaha or them when you talk about their fair share when they're paying four hundred and some thousand dollars for superintendents and that sort of thing, and we have people out there that are working for considerably less. I mean, we have school districts that operate on about that much money, so that's the problem I have. I'm sorry to say but I don't think I can support this amendment. [LB235]

SENATOR KRIST: Thank you, Senator. [LB235]

SENATOR LOUDEN: Thank you, Senator Krist. Thank you, Mr. Speaker. [LB235]

SPEAKER FLOOD: (Gavel) Thank you, gentlemen. Senator Krist, you are now recognized. Senator Krist, following you in the queue are Senators McGill, Hadley,

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Sullivan, Conrad, Howard, and Ken Haar. Senator Krist, you're recognized. [LB235]

SENATOR KRIST: Yesterday I walked to the parking lot to get into my car and one of my colleagues, a colleague that I respect quite a bit, he's in the top third, (laughter) walked up to me and said, I'm sorry you're from Omaha. And I looked at him and he's very serious. He said, it seems like every time we turn around, we're pointing to Omaha or Lincoln and saying, they're not doing their fair share. If I halfway expected that AM1192 was going to derail the hard work of the Education Committee to get LB235 on the street so that we were taking care of our constitutional obligation to educate our kids, I would not have put it in. But I think you need to have a discussion. We need to have a discussion. We need to have an understanding. We need to be statesmen. The way we talk to each other in this room and the way that we treat the smallest of the townships, the villages, and the largest of the metropolitan-class cities in the state need to be equal. I take that lead from someone who is not here today or someone who is probably listening in his office. The Chairman of the Appropriations Committee has stood up here time and time and time again and told us, equal base, and until you do your fair share, you don't get any money from the state of Nebraska. If you're listening at home, and I hope you're listening in this Chamber, I have no reasonable amount of expectation that AM1192 is going to succeed. If I did, I would never have put it up there. But this discussion needs to happen because we are changing tax policy one bill at a time. We have taken away and taken away and taken away. We're not going to introduce any new taxes and we've not given them anything in return. Why is this any different than the discussion that we've had over a number of bills in the last few weeks? If you don't tax your people on their property the way I want you to tax them, then I won't give you any additional tricks, no additional tools in your bag. Last time I checked, behind my name it didn't say, or in front of my name it didn't say mayor or city councilman. It said state senator. You see, I've learned over my three sessions, special session to cut the budget, the short session I went through, and now my own long session after being elected, that there cannot be any winners and losers in this Chamber. We are legislators and introducers on behalf of the winners that are supposed to be outside that glass. And if we're doing anything to one group that we are not helping another group, we're wrong. AM1192 says, if you do not do your fair share, I arbitrarily said, it's one. And yes, Senator Loudon, it doesn't affect Omaha. But I've seen other senators stand up at the mike and it didn't affect their constituents adversely, so what the heck, let's vote green. I hope we do have a little bit of a dialogue this morning. I promised the Speaker that I would not carry this on all day. I don't think it's worth carrying on all day, but I think it's worth thinking about. I think the tone needs to be more civil. I think the content needs to be better thought out, and I think we need to do tax policy reform and look at that as our goal in an interim because there are... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR KRIST:many, many things that need to be looked at. Please discuss this.

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Please discuss this and think about this. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Krist. Senator McGill, you are recognized. [LB235]

SENATOR MCGILL: Thank you, Mr. President. Members of the body, I rise in support of Senator Krist's concept of getting up here and talking about our fairness in tax policy and the debate that we have had so far this year on tax policy. You know, sometimes, you know, being an urban senator, it seems like rural Nebraska blames Omaha and Lincoln for the fact that people are leaving. We're not sending buses out trying to recruit people into our cities. People are choosing due to the market, due to the economy to come here to Lincoln or to move to Omaha for a type of job. And yet for some reason, Omaha and Lincoln in eastern Nebraska are seen as the bad guys somehow. But most of the population lives in our areas and pays the majority taxes then too. And yet people come in and say yesterday that we shouldn't allow the city of Lincoln to vote...the people to vote to increase their sales tax because our property rates aren't high enough, same for Omaha. So I do like that Senator Krist brought this idea because it's the same thing. If you didn't support the half cent sales tax based on the fact that Omaha and Lincoln aren't doing their fair share of property taxes, then you should be supporting this amendment as well. You know, we have a property tax credit program here in Nebraska that favors the rural areas, since it's based on land as opposed to homeowners. We do a lot in this body to help rural Nebraska survive and to stay strong and try to bring businesses into rural Nebraska which, hopefully, will bring...keep people there so they can afford good schools and can afford a certain way of life. But we also have to make sure that as our cities are growing that we're allowing them to fund the projects they need to be strong and successful, because without a strong Omaha and Lincoln, which is the core of our...a huge core of our tax base, then the whole state suffers. So please, Education Committee, this is certainly not an attack on you and the work that you have done. In fact, I don't feel like Education members need to stand up and justify LB235 because that's not what's getting to...that's not what's in the heart of Senator Krist's amendment or in the argument some of the rest of us are making. This is about discussing tax policy in the state, and what's fair for everyone, and having a consistent message in terms of what occupation taxes are okay or aren't okay, what sales taxes, what type of property tax credit plans are fair to Nebraskans. So let's have that discussion for a little bit. I feel like it's a good point in session to be doing that since we've had so many debates already on these issues and before we get to the budget, and especially in light of yesterday's debate as well. So I encourage people to let this discussion take place and to really think about consistency here in our message. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator McGill. Senator Sullivan, you are recognized. [LB235]

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SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. And perhaps why it would go without saying that I would stand and be in opposition to AM1192, and have actually been encouraged not to say anything, I feel compelled to, obviously, stand in opposition to this amendment but also to say, okay, don't beat me up. You know, I was a rural senator that voted for the bill yesterday, and I really don't want this conversation to go to a rural versus urban. That should not be what it's all about. Now granted, we have...it's our prerogative in this body to introduce any amendments we so choose and let the discussion develop and to play out. But, as I said, I don't want this to become rural versus urban. And so I have to go back actually to the amendment before us and remind us that anytime that we deal with the state aid formula that the Education Committee worked so hard to develop into a fair situation, that anytime we deal with any component of it, for every action there is a reaction. And I think that this would take us down a very erroneous path. As I said when I talked on LB...the bill when we first had it on General File, it's hard to be fair. We tried our best. I look at some of the school districts in my district that are \$1.06, \$1.09, \$1.04, at least two of those will become nonequalized districts next year. They won't get any equalization aid. So they're doing their part. One of those districts is rifting individuals, teachers, as we speak. I'm sorry, Lincoln Public Schools, we're taking the hits in some of my school districts just like you are. So again, I caution you that, yes, perhaps we need to have the discussion but it should not be rural versus urban. I think we need to stay focused on what we're trying to accomplish with LB235 and let's go forward. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Sullivan. Senator Conrad, you are recognized. [LB235]

SENATOR CONRAD: Thank you, Mr. President. Again good morning, colleagues. And I'm glad I have a chance to follow Senator Sullivan and I think she provided a good overview of again how the committee process worked and how hard members from different geographical backgrounds, different political backgrounds have come together and put forward their best proposal in LB235. And again, our job here is to debate important public policy issues of the day. And when there are sincere, philosophical disagreements with the proposals before us, we have an obligation to speak out and to talk about them, and to build a record, and to not only educate each other about potential impacts in our own districts and statewide, but to ensure that the public has a clear understanding of these issues as we move forward. Senator Sullivan closed by saying, we're taking our hits, too, out in rural Nebraska. I was struck when Senator Adams first introduced or first opened on this legislation on General File, and I'm not sure if he's reiterated it again today, about how we're all committed to sharing the pain. And that's...both of those comments are where I have a philosophical disagreement. When it comes to state aid for education and ensuring a strong, quality public education for our schools, our teachers, our students, and our future, that is the wrong place to start. We all, of course, are painfully aware of the difficult economic conditions we're

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operating within. As a member of the Appropriations Committee for the past five years now, I can tell you, we make those difficult decisions every single day in committee. And so I appreciate that and I'm not trying to distance that philosophy from the economic reality. But in my opinion, and this is something that is no news to any member in this body, education is different. Public education, kindergarten through 12th grade has a constitutional imperative. And, in my opinion, has a moral imperative. And we should be doing everything that we can in all other aspects of our work here to ensure that we can have the resources that our children need. We've heard a lot this session about the needs of roads and infrastructure. What is the state aid formula? Well, it's about what students' needs are. And this isn't an attack on the formula because I actually share Senator Adams' perspective that, yes, it is complicated, but we're a diverse state and each component of the formula is there for a very sound policy reason. And it's our obligation to be educated about those variables, factors, and impacts. But to get back to the point and the clear distinction about student needs and why the formula exists really, I see the heart of the formula being about the needs of students. We can look no further than recent history to see what LB235 represents is not a clear indication of student needs, but a mechanism to ratchet down so-called student needs to fit our budget problems. And I...again I understand it's because we're in difficult economic conditions, but I philosophically believe that's the wrong way to go. If you looked at... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR CONRAD: Thank you, Mr. President. I'm sure I'm not going to have time to finish so I'll hit my light again. I want to talk more, though, about where we would be in terms of utilization of the current formula, rather, the changed formula as proposed in LB235, and talk about the numbers we're looking at in terms of overall budgetary impact for all school districts in this proposal are indeed far less than what it would be even when you take into account or take off the table the effect of the short-term help on stimulus. And what this proposal is, is a General Fund allocation that is equal to or less than the General Fund allocation we sent before stimulus in 2008. Student needs continue to rise. Health insurance rises. Utility rises. Just like a family's bottom line around any kitchen table visiting about these issues, prices escalate, needs escalate. [LB235]

SPEAKER FLOOD: Time, Senator. [LB235]

SENATOR CONRAD: Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Conrad. Continuing with discussion, Senator Howard. Following Senator Howard today are Senator Ken Haar, Senators Loudon, Fischer, Pahls, Adams, McGill, Price, Conrad. Senator Howard, you are recognized. [LB235]

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SENATOR HOWARD: Thank you, Mr. President, Mr. Speaker and members of the body. I spent the first four years down with this legislative body with Senator Raikes on the Education Committee. I never met a smarter person. I never met a person who was a harder teacher though and I learned a lot under him but it wasn't always an easy lesson. People said no one knew the funding formula like Senator Raikes. Of course, maybe Tammy who worked with Senator Raikes knows the funding formula equally as well. But I will say to you that Greg Adams has also studied under Senator Raikes and is an expert on it. It's a very complicated, enmeshed formula. But Senator Adams has devoted himself to doing a good job and, above all, being fair in the product that he has put out and that our committee has put out. I'm proud to stand here with him, I'm very proud to be the Vice Chair of Education, because I know the quality of work that he has done. I know the time he's put in on it. I know the relationships that he has built with the superintendents and that certainly is not easy because everyone comes from a different area. Everyone has got a different student body. Everyone has got a different concern. But I would stand with Senator Adams and say that the effort and the work that he's put in does us all credit. And with that, I'll offer the remainder of my time to Senator Price, who has requested it. [LB235]

SPEAKER FLOOD: Senator Price, Senator Howard has given you 3 minutes 25 seconds. [LB235]

SENATOR PRICE: Thank you, Mr. Speaker, and thank you, Senator Howard. I rise this morning in support of LB235 and in opposition of AM1192, but again having the opportunity to speak about it and we are speaking about fairness. I think it incumbent also and that we would have to be responsible members who also then look at all these avenues that we're bringing up fairness across a broad spectrum. And instead of saying fair, I'm not really comfortable with the word "fair." Fair is what you go to, to ride on rides. You have just and you have unjust. You have right, you have wrong. You have lawful and unlawful. Fair...fair is kind of this nebulous term that makes some people feel good on their position. But now if we want to talk about equality in a mathematical sense or something, then let's talk about that. I had a bill last year, didn't make it out of committee, which dealt with the concept of how property, real properties are assessed. That falls under Chapter 77 of our code, 77-1311.03 to be exact, and it was a bill, LB692. You know, if we look at something and we're starting to peel back the layers, let's peel back a little further. Okay, we're talking about the levy and how far people go, but how about we look at how we assess all these properties and the period in which we did. Again, I spoke about this the other day and it probably will become almost like a drum. By looking at...right now we have it in statute that all real properties will be assessed within a six-year period. But almost every county does it in a one-year period. I know in Sarpy County they try to meet an 86 percent rate, and they normally try to get to 100 percent within a year. And what this does, it gradually changes. Market upswings and downticks can be accounted for. Yet we do have a county that refuses, came in and

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testified against doing it any sooner than a six-year period. What does that mean? That means if all six people, you have money out and they owe you and you tell five of them they don't have to... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR PRICE: Thank you. You tell five of them they don't have to meet their obligation at the interest rate, they're saving money. And then when you look at the, you know, state aid is needs minus resources...or, excuse me, resources minus needs. If I hold my resources low, my corresponding needs is greater. Ergo, I get greater needs. So if we want to get the fairness, let's makes sure...or equality, let's make sure everybody is assessing the same way in the same period across the board. There are billions of dollars of property in one county of a metropolitan class which do not see these new assessments, these new valuations, I should say, on an annual basis. And if you're talking about a home of \$92,000, that's one thing; if you're talking about a half million, that's another number; and if you're talking about a company or a business at \$33 million, that's even more. So if we want to be safe, we want to be equal, let's make sure... [LB235]

SPEAKER FLOOD: Time, Senator. [LB235]

SENATOR PRICE: ...we look at all processes. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Price. (Visitors introduced.) Continuing with discussion, Senator Ken Haar, you are recognized. [LB235]

SENATOR HAAR: Mr. President, members of the body, last night after session I was walking towards the parking lot and expressed my feelings to a member of the Legislature who was walking to their car and it was a feeling, it was just a feeling that things...not totally, things never totally turn urban or rural, but it kind of felt like it had turned into beat up on Omaha or beat up on Lincoln, again, not a 100 percent, of course. So what I want...the reason I want to talk about this amendment, and I certainly would not vote for it but I appreciate Senator Krist bringing it up, is to talk about that feeling I left with yesterday. When I've had various tours of the Capitol, two or three of them now, where I take the long tour and I get to look at all the murals and get them explained, one of the main themes of all those murals is one Nebraska, we're all one Nebraska. And I think that's really important that we always keep that in mind that we're one Nebraska. We're not Omaha, we're not Lincoln, we're not the 1st District, the 2nd District, the 3rd District, we're not Democrats, Republicans, Independents; we're Nebraskans. And when it came down to the vote yesterday on Senator Ashford's bill, again I walked away with that feeling that at least some of the remarks were antiurban, anti-Omaha in particular, and then sometimes anti-Lincoln. Okay, I want to skip now to TEEOSA because that's the bill that we're on. And yesterday the analogy was made

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between TEEOSA and the cities and the property tax and the sales tax issue and so on. The state constitution says this about schools: The Legislature shall provide for the free education in the common schools of this state for all persons between the ages of 5 and 21. "The Legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof." So that's the basic thing. The state is required by the constitution to fund public education. And over the years, it's evolved into a number of things. And one of those is equalization. Now I don't see equalization in this constitutional mandate, but it's a concept that I think...at least I value highly and many people in the Legislature value very highly, but it's not in the constitution. And the concept of equalization was, of course, demonstrated in TEEOSA, which is not a perfect formula, but before TEEOSA it was grossly unequalized. You just took the state aid money, whatever we decided to make it, divide it by the number of students, and handed it out. And in that system there were schools...there were districts, school districts that had levies that were out of sight. They were in the \$2 and \$3 range. [LB235]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: (Gavel) One minute. [LB235]

SENATOR HAAR: Thank you. Now equalization as defined in TEEOSA is not perfect, but nobody has a tax levy in the \$2 or \$3 range anymore. It's an attempt. It's different with cities. I don't see any concept about equalization of cities and towns, and it can't be there because of the nature, the larger the cities and so on. The next time I get up I want to talk about the difference between equalization when it comes to school funding and equalization when it comes to cities and towns. Thank you very much. [LB235]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Louden, you're recognized. [LB235]

SENATOR LOUDEN: Thank you, Mr. President and members. Well, since we've more or less laid out some of the ground rules here this morning, we're going to have a discussion on some of this TEEOSA funding and aid and who is getting it. I think then we'll go from there. And as Senator Haar just pointed out that it's...the state of Nebraska is supposed to furnish education from those from 5 to 21. And the question has always been, since we've come up with this TEEOSA funding, how much of it the state of Nebraska is furnishing, and how much local people are furnishing. And when you use this formula such as we have now, there are several districts that receive no TEEOSA funding whatsoever and haven't for years. I've always maintained that this needs formula has to be overhauled or looked at again. There's problems in there on what you describe as needs. It's never been described what the needs are. There's never been a cap on what they do with their needs. And when this first came about, this TEEOSA funding, why, it wasn't hard to figure out that if you could raise your needs, why, you

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received more state aid. I was on a school board for 30 years and I was in there when state funding first came in. At the beginning it was just like your state apportionment. We got paid so much per pupil and that went on for a couple of years. And then they decided to equalize some of these, and in the process they used their administration as part of their needs, their maintenance as part of their needs, and various other elements went into the formula. As we all know when anybody that has read the newspapers, you've seen some of the abuses that these needs have been brought under. Senator Avery is also into this LB...or this...yeah, LB235, has amended in there that they can't spend money for lobbyists. Now that's a landmark decision there because for years, ever since we've had TEEOSA, why, some of these districts put out big bucks for lobbyists. I think a few years before that when Senator Raikes was here, he put in there, if you read in there, they can only spend a certain percentage of their budget on lawyer fees. Up until then there wasn't any limit on what they could spend for lawyers. I think some of this needs to be looked at. I think with your needs formula you need to go in there and see how much some of these schools districts are spending for administration compared to instruction. The Texas courts down there several years ago decreed that you have to spend at least 65 percent of your budget for instruction. We have districts that aren't doing that in some of the larger districts. So somewhere along the line, this all needs to be looked at because we have districts out there that don't receive any state aid and they have a share that the mill levy isn't that high, but there's not that many paying that mill levy and so consequently their property tax per person or per ranch unit is quite high. So I think with that as our discussion goes along, I thank Senator Krist for bringing this to the floor today. I don't intend to vote on it, but I think it was a good vehicle for discussion. Thank you, Mr. President. [LB235]

SENATOR LANGEMEIER: Thank you, Senator Loudon. Those still wishing to speak, we have Senator Fischer, Pahls, Adams, McGill, Conrad, Schumacher, and others. Senator Fischer, you're recognized. [LB235]

SENATOR FISCHER: Thank you, Mr. President and members. Every time we have a state aid discussion, many of my colleagues look at the printouts. In fact, when Senator Krist handed out his printout today, I went through and I marked my 21 districts. I have a file folder here where I mark my 21 districts to see how they turn out when we discuss state aid every year. I think we need to point out that the Education Committee didn't do that. The Education Committee looked at what the...truly what the philosophy was and should be behind state aid in their opinion. And so I would like to thank them for not looking at a printout and, instead, having a discussion on policy and having a discussion on what that should be. I'd like to thank Senator Krist for introducing this amendment. I think we need to have this discussion. Things have gotten a little testy in here. It must be April. And so we kind of pick a little bit here and there at each other and, you know, that's okay. That's okay that we do that. Emotions run high and we need to be able to express our opinions. But we also need to realize why we're here. Sometimes I think it's easier for me because I have 21 school districts and they're all affected by state aid in a

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different way, and I try and balance that. With Senator Krist's amendment, I have 14 districts that wouldn't get any equalization aid. But you have to remember that 12 of them are nonequalized now and that grows every year. I have nine of my school districts encompass a whole county or more. They even go outside of counties. So there's a lot of land, there's a lot of value. The valuation for that property increases double-digits every year. That hurts them in a state aid formula like we have now. It also hurts all of my districts because they're losing students. So every year we have a discussion on state aid. This is my seventh. Every year my districts lose equalization aid. They lose money from TEEOSA. As I said, that will continue. I will probably have four school districts that are cities, that are villages, that are landlocked that will be equalized districts in the future. Yet every year I vote for this bill. I vote for state aid to schools. I vote for it because I think it's the right thing to do. Do I agree with it? Senator Adams will tell you that with a lot of it I don't agree with. And we try and make changes and we try and define what those needs are because it changes. When we had this discussion on General File, you know, I stood up and said, we have that sacred equalization. We can't touch it. Remember, it's sacred. That's how we take care of the students in this state. That's how we treat them fairly. Equalization is 25 votes. Sparsity used to be a factor in equalization and that benefited my districts because it looked at needs that are identified with being these large, sparsely populated districts. My teachers, my staff, they have real difficulties in obtaining their professional development. [LB235]

SENATOR LANGEMEIER: One minute. [LB235]

SENATOR FISCHER: They have to travel great distances in order to do that. They aren't covered under equalization in that. So I would say to you that even though every year my districts continue to lose equalization aid, we need to get beyond that. We need to identify what are the needs, how those needs should be met. And I'll continue to vote for state aid to schools. Thank you, Senator Adams. Thank you, Mr. President. [LB235]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Pahls, you're recognized. [LB235]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I'll just...a couple of statements that the good Senator Fischer said that I'd just like to reply to. To be honest with you, the Millard School district at times has not been happy with me, and I'm a product of that school district, because I didn't push hard enough for them to get more aid at certain years. So, and that's the only district, only school system in my district. Now here's another thing too. I don't know if they do this anymore but many years ago when I did teach for Wayne State, we would have classes at Bassett, Nebraska. I don't know if any of those state schools do that anymore but that's one thing that we did offer. What I want to get back to is, I'm not talking about fairness because we cannot be fair in all issues. I'm talking about balance. And that's why the last couple

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days I've been handing out information trying to show you where there or why there needs to be a sense of balance. And today you should have a new chart in front of you and I'm just going to ask you to do what I call a little homework because I did give you...on the third column, I did give you that information in the past. I did not fill it in for you, but I'm just going to talk about...let's take a look at property tax at the state level. It collects almost \$3 billion. If you go across Douglas County, it's \$807 million, and then, of course, your county or counties I left blank just because I want...we start...we have to start looking at the whole ball game or the total ball game. And then on 2010 total property valuation, you can see the number, \$154 billion. You can see in Douglas County it's \$36 billion. Your total valuation, I'll let you look that up if you so choose. Let's go down to sales tax. Sales tax is one billion, almost \$300,000 at the state level. In the city...in Douglas County it's \$432 million. The sales tax revenue for some of you would be significant. Of course, for some of you it would not if you do not have that in your county or counties. Income tax, one...basically \$1.5 billion. If you take a look at that, you would see in Douglas County an income tax. It's about half a billion, what comes in your income tax. Now here's another thing that I added on to this is just to give you a feel, because I did support Senator Fischer on her roads bill and this is some information that I would use if I were thinking that, and I know that bill will come in front of us again, I'm assuming with probably some amendments. Even though I did not totally agree with that particular bill, we do need to do something with roads. That's the reason why I signed on. Senator Fischer did not come to me and say, would you please sign on? I signed on by myself because I know we need to do something. But this is the information that I would take a look at to see what...at the state level on motor vehicle sales tax, if anybody is buying a car, \$167,000; in Douglas County it was \$40,000. And also motor vehicle sales tax revenue, that's available for you also. Then I look at the registration, registration for the vehicles, \$201,000. Then as you go forth across you'll see \$57,000. And then you can see what your county or counties do. Now I know and we all know that Douglas County is going to have, probably, the most revenue, and they probably have the most needs. And this morning when I was listening to Speaker Flood on the radio, he was talking about...one of the bills he was talking about was the roads. And the comment that was made, you know, a lot of those roads are going to lead into Omaha because you can work on the road below Omaha to Nebraska City, and one to Blair, and then also they were talking about... [LB235]

SENATOR LANGEMEIER: One minute. [LB235]

SENATOR PAHLS: ...thank you...the one all the way up to Columbus, Schuyler, in that direction. So what I'm trying to say is, I'm afraid now to go in the parking lot. I've heard a couple of senators said they were...that they had an uneasiness about the parking lot. I do not nor will I ever have that uneasiness. But I do think at times there is this tension. Again, I'm looking for balance, not necessarily fairness, because there's not always going to be a fairness issue. But when you stand up and you tell me that we should not use General Fund monies for this bill because I particularly don't like it, but we can for

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that bill, that is one thing I think we are not getting to the sense of balance there. And that's a major reason why you have heard me speak on some of the...with some of the senators making comments about, it's okay to use General Fund for this one, but not this one. Thank you, Senator. Thank you, Mr. President. [LB235]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Adams, you're recognized. [LB235]

SENATOR ADAMS: Thank you, Mr. President. Members, I'm not going to speak for long but the discussion has been interesting and I've picked up on some things that, I guess for my own comfort, I want to clarify, and then make one more statement in opposition to this amendment. When the committee started to develop LB235, Senator Fischer is right on the mark, we didn't look at a single school district, not a single school district. I didn't look at mine. I went home last weekend and finally heard from them. Boy, did I hear from them. But our point, I felt, was develop policy, knowing the policy was going to hurt, to develop policy. Because I tell you what, if we'd have started looking at individual school districts back in May, we'd have never gotten LB235 together. It just would not have happened. There would be no rhyme or reason to what we've done. Is there perfection in LB235? No. Is there perfection in the state aid formula? No. Do I feel like the committee has put together its best effort to try to be as fair as possible? Yes, I do. And when we're talking about equalization aid, let me clarify something. School districts get apportionment aid. That's not part of that calculated number that you see on that list. And that apportionment aid goes out on a per capita basis and it doesn't matter, we count in the parochial school kids, the public school kids, and it all goes to the public school. Allocated income tax, that is part of that calculated aid and allocated income tax varies from one school district to another based on income. And do nonequalized school districts get allocated income tax? Yes, you can go through that spreadsheet and you'll see these school districts that are getting \$1,500, they're getting \$9,000. Most likely they get no equalization aid. That is their chunk of allocated income tax that was generated within their school district. An apportionment aid, they get that too. It doesn't show up on this spreadsheet. It's separate. This time around, valuations have had a big impact. They always do because when we take...we take and we look only at equalization aid and we forget about the allocated income tax, and we forget about apportionment, and special ed, and we only look at equalization aid, then we take valuation into consideration. There were districts, not very many, but there were school districts that saw flat valuation growth. There were others that saw double-digit valuation growth. And as a result of double-digit valuation growth, possibly declining student enrollment, and then a depletion of General Fund money for TEEOSA, are they seeing proportionately a big loss in TEEOSA aid? Yes. The question is this, as hard a question as it is to try to answer: Does the school district have enough money to run the school district? All resources taken into consideration, do they have enough money to run that school district? Let me say one other closing thing. This amendment, if we were to pass it, doesn't help anything. It only cuts deeper. It hurts. It hurts a lot.

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And for that matter, consider this: 95 cents, minimum levy adjustment. There it is. Could it be a dollar? It could be a dollar. Could it be 80 cents? It could be 80 cents, but it's 95 cents. And the calculated aid as was modeled out to you was based on 95 cents. Do you know how school districts are going to respond if you pass this amendment knowing that they've already set their levies that we will use to calculate aid? This isn't a going forward thing. [LB235]

SENATOR LANGEMEIER: One minute. [LB235]

SENATOR ADAMS: It's not like we say to schools, we pass this amendment and, oh, go back in and reset your levy and let us know. We're going to base next year's aid check on the levy they have already set. And for some it's at 95 cents, some it's at 80 cents, some it's at \$1.06 or \$1.07. You're running backwards and it doesn't work. Again I would say, I don't support this amendment. Thank you, Mr. President. [LB235]

SENATOR LANGEMEIER: Thank you, Senator Adams. (Visitors introduced.) Continuing with discussion on AM1192 offered to LB235, those wishing to speak, we have Senator McGill, Conrad, Schumacher, Ken Haar, Christensen, Hadley, Krist, and others. Senator McGill, you're recognized. [LB235]

SENATOR MCGILL: Thank you, Mr. President. Members of the body, I don't think I said this really the first time around but I do want to thank Senator Adams and the entire Education Committee because anything I say today has nothing to do with state aid to education. I actually think they do a wonderful job. I love that they don't look at the numbers and I wish that there was a way to put a mask on like that for all other tax policies so we wouldn't know what was going towards who, and so it may be the best system that we have in here. So my gripes have nothing at all to do with...or my concerns really have nothing to do with LB235 in particular. I was just taking a chance to talk on Senator Krist's amendment because I agree that it's a good place to start discussion and to talk about some of the things we've already addressed this year and what's still coming. And, you know, I think it's important, in a "Kum ba yah" sort of sense, to look at ourselves and...I mean, Senator Ashford had a great speech at the end of the day, at the end of his bill yesterday talking about how important it is to do good for all of Nebraska. And we all come into the Legislature with some sort of prejudice based on our area, based on our lives, and many of...much of that ends up materializing as a rural district or an urban district in issues important to us. And to me, denying that there's some sort of rural-urban movement or opinion is like denying that we all have prejudices. You know, it is part of the process. We do have inclinations towards rural or urban, based on where we live and based on our constituents, and that's natural and we need to acknowledge that in order to move past it and continue to work together. And so just because issues come down like that doesn't mean that we have to be stuck in those or also deny that there's any rural versus urban interests, because there are. Nebraska is diverse. But it's in acknowledging that, that we can

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move forward and try to figure out how we can do good for everyone. You know, while I didn't vote on LB84 earlier this session, I do want to be able to vote on it. While part of me is skeptical about whether an expressway is really needed around Norfolk, I'm willing to go there and to make that investment. I just don't like the funding structure right now in that particular bill. But I can acknowledge that that's another part of the state where people have needs and desires and I hope that we can get to a bill that I can support revolving around roads funding. I can't think of many issues at all that I haven't done...or voted on in support when it comes to trying to grow rural businesses, entrepreneurship, of dealing with water issues. It just seems like there's hesitancy sometimes coming the other way. And I hope that, you know, as we're looking at some of the legislation particularly that we have on Select File, that we go in thinking about all of our brothers and sisters living in other parts of the state, and allowing them in particular to vote on certain issues that affect them. And certain troublesome part...I know, in Omaha, you know, there's a sewer issue up there that we need to...that is going to put a great deal of burden on those Nebraska citizens because, regardless of where you live in the state, you're a Nebraska citizen. And I hope we can move forward accepting, yes, some of our prejudices about rural versus urban and where we live and continue to try to work together. And again I wish there was some grand formula that we didn't see any numbers to...that affects all of our other tax policy because that would be great. It would keep us out of some of these discussions, perhaps. But I do thank the Education Committee for the hard work they do, and for just being so keen on managing the details of that formula. Thank you, Mr. President. [LB235 LB84]

SENATOR LANGEMEIER: Thank you, Senator McGill. Senator Conrad, you're recognized. [LB235]

SENATOR CONRAD: Thank you, Mr. President. And just as a point of clarification, I believe this is my third time, is that correct? [LB235]

SENATOR LANGEMEIER: You're correct. It is your third time. [LB235]

SENATOR CONRAD: Okay. Thank you so much. Colleagues, I do want to continue a little bit about where I left off last time in regards to what the formula is at its heart and that's an expression of needs regardless of district, regardless of geography, based on student needs. Of course, there is a multitude of variables that impact various districts in different and disparate manners, and I really couldn't agree more with Senator Fischer and Senator Adams and others who have visited from the committee perspective about how we need to look at an overall philosophy rather than a parochial kind of glance at the impact in our various districts. And I've said many times on this floor and continue to believe that we have unique districts and unique interests and constituencies to serve, but we do have to do what is best as state senators for the entirety of our great state. And I think we all strive to do that in each and every vote. I sure hope we do. I try to meet that aspiration myself, whether it be economic development, water policy,

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education, public safety, infrastructure, etcetera. And I can tell you, from an Appropriations perspective, we all work very hard to achieve those same objectives. And it, I think, is clear when you look at my voting record in this body over the past five years that sometimes I tease with Senator Adams. He represents my home district, so we have a kinship based on that, that I'm kind of an overachiever when it comes to education funding and am not going to be satisfied when we see cuts on the table. That's an issue that I've campaigned hard on, my record is clear on. And again, I just have a sincere philosophical belief, based on common-sense research in our constitution, that regardless of the economic conditions we have to work harder to ensure more resources go out through the formula to all districts for all students. And I want to talk about that a little bit. When you...because I think there's some confusion in the body and some confusion in the public about, well, these cuts are a direct result of what happened with the so-called cliff effect after the stimulus money that was part of the last budgetary cycle and calculation. And indeed that does need to be part of the debate. But just a little clarification that I think is helpful and does belong in the record is what LB235 does again is changes the formula and ratchets down what we previously defined as student needs to meet our budgetary obligations. So I believe that's an artificial definition of what student needs are because we know student needs grow each and every year. That's just common sense. Certified state aid from the General Fund, I just want to make sure these records...or these numbers are in the record. For school fiscal year 2008 to 2009 there was approximately \$839 million. There was approximately \$61 million less than the original certification of \$900 million, allocated income tax by about \$20 million. In 2009-2010 school fiscal year, we went from \$839 million to \$933 million dollars. [LB235]

SENATOR LANGEMEIER: One minute. [LB235]

SENATOR CONRAD: That was because of some changes to the original certification, and the allowable growth rate, and tax rebate averaging adjustment, teacher education adjustment, and the federal stabilization dollars. In 2010-2011, that school year...school fiscal year would be at \$950 million. Under the current formula, before LB235 would be adopted, we would be looking at over a billion dollars in this fiscal year and next. Instead, under LB235 we're looking at \$820 million and \$880 million in each of those years. And so this doesn't single out my district, this singles out all districts. And I think it is important that that is in the record and is part of the debate because I think we have to work harder in conjunction with the Education Committee to find the resources we need to meet our educational obligations. I think the committee has done a great job under very... [LB235]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Time, Senator. [LB235]

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SENATOR CONRAD: Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Conrad. Senator Schumacher, you are recognized. [LB235]

SENATOR SCHUMACHER: Call the question. [LB235]

SPEAKER FLOOD: There has been a call of the question. Do I see five hands? I do not see five hands. Mr. Clerk, we proceed with discussion. Senator Ken Haar, you are recognized. [LB235]

SENATOR HAAR: Mr. President, members of the body, I want to continue my discussion from my earlier session here. First of all, I want to thank the committee I worked with and Senator Adams for the hard work on the TEEOSA formula. But I want to tell you, I didn't vote for LB235 out of committee because of my friendship with other people on the committee. I voted because I thought we had made a pretty good argument that it was as fair as we could get it, not pretty good, a good argument that we had made it as fair as we could get it. I want to go back and talk a little bit more about some of the discussion from yesterday about basically talking about equalization. Gee, the urban areas ought to come up to a certain level before they can tax in another way and so on. Again equalization is a concept. It's not in the state constitution; it's something we've developed because we think it's fair for schools. And schools are funded out of property tax. That's a decision that's been made sometime ago too. If we change that, of course, it would be total tax reform. Cities are not funded totally out of property tax. The chart I handed out yesterday, in fact, shows that Lincoln is just a little bit over a quarter property tax, although in the past it was much higher based on property tax. But under the then Mayor Johanns, and I was on the council part of that time too in Lincoln, we reduced that percent to bring it more into compliance with the whole concept of a third, a third, a third. So I think what was talked about yesterday of trying to compare TEEOSA to how the cities and urban areas should...and counties, I suppose, should fund their governments is a total tax reform, and that was a...copying a statement from Senator Krist yesterday. If we're going to go that direction, then we should take a lot more discussion because it would be total tax reform. If we're saying that the cities and counties of this state should equalize, that's a total tax reform, and then I think it certainly doesn't make sense at all. When you look at a city like Lincoln, Lincoln is one of those places that's often mentioned as a great place to raise your kids, and many of you will say that about your own cities, but it's because of the decisions that local citizens have made. And we could go on and on. I mean, if we're going to say equalization then we should say that every city has to have a certain number of parks. Lincoln has a great park system, a great trail system. It's one of the reasons companies like to come to Lincoln is because of the quality of life for amenities like parks and pools and those kinds of things. If we're going to go to equalization for cities, then I suppose we're going to have some kind of formula that takes into account the size of the city and

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what those amenities should be, and it's just an impossible task. The jobs of cities and counties... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR HAAR: ...thank you...with their county board and city councils and the vote of the people of those areas are the ones who should decide on what happens with cities and counties. And I think talking about equalizing, that cities and counties should come to a certain level so that we're all equal, makes absolutely no sense whatsoever. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Ken Haar. Senator Hadley, you are recognized. [LB235]

SENATOR HADLEY: Mr. President and members of the body, I have not spoken on this but I'd like to just say a couple of things. First of all, I do appreciate what the Education Committee does. It is a hard job and I truly trust them to look at the big picture and come up with appropriate inputs and come up with the appropriate way to handle it. But what that doesn't do is that the average district out there has a difficult time understanding the formula. And what happens is, is that the districts have expectations--some of the districts have expectations--and then when the actual formula comes up, it comes up different. And it's that difference between their expectations and what comes up that causes the concern. I do appreciate what Senator Fischer said, because we do need some kind of formula, and I think we need to keep working at it and trying to get it done. One of the things that...I spent the weekend trying to understand the formula better, and some of the reading I did...just for your information, Proposition 13 in California came about because of a taxpayer revolt on property taxes, and their school systems have gone from some of the best in the country to some of the worst in the country. So I just think we need to be careful, as we go along, when taxpayers are footing the bill. One last thing: Senator Conrad was talking about the difference between what the formula would be today if we fully funded it and hadn't made changes versus what we would have had previously. I went and I looked at the yield from local effort rate. What that is, is the amount that the school districts are getting, because basically we had an increase in the valuation. And they actually, school districts are getting \$126 million more this year than they got in 2010-11 because of valuation increases in their districts. So if you take...so we have literally, almost, I believe, made it possibly whole because we have given them 100...I mean not given, but they've gotten \$126 million in valuation increases that have been offset by the decreases from what we're not funding the formula. So let's not forget that our local taxpayers are picking up a part of the drop in the total funding that school districts get. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Krist, you are recognized.

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[LB235]

SENATOR KRIST: Thank you, Mr. President. I would like to thank every member of the Education Committee and reemphasize that they did not know the outcome by district; they did not target in on the district. They worked the formula and they did a very diligent, thorough job, and I'm in support of LB235 as it stands. Folks, half of our state budget, if you count our higher education and university system, half of our budget--half of our budget--goes to education. It is our constitutional duty to afford for that education. The reason that AM1192 is there was to promote and provoke discussion. I said very early on that AM1192, if I had any thought that it would have succeeded, I would have never put it up there. I do not want to interfere with the care that needs to be had for our school systems. But I think, as I said from the very beginning of this session, changing tax policy one bill at a time on this floor is wrong. This is not urban versus rural. This is a group of people that were elected to represent very different communities, very diverse communities around the state. And in conclusion I just want to say this: Every one of those communities has local leadership. We are not them; we should not be second-guessing them. You have an opportunity to do that. It's called your vote. You can go back to your local political subdivisions and vote for the next guy or gal. Here is where we make good law for the entire state. And I would hope, out of this discussion--and I will promise to remind anyone who stands up and says, yeah, but they're not going to get their fair share because they haven't done their fair share--that we should stop that thought process before it ever gets started again. Mr. President, with that I would like to withdraw AM1192 and get on with business, and I thank you for your courtesy. [LB235]

SPEAKER FLOOD: Thank you, Senator Krist. AM1192 is withdrawn. Senator Larson, you are recognized for a motion. [LB235]

SENATOR LARSON: Mr. President, I move that LB235 be advanced to E&R for engrossing. [LB235]

SPEAKER FLOOD: Members, you've heard the motion. We now turn to discussion on the motion. Senator Pirsch, you are recognized. Senator Pirsch waives his opportunity. Senator Council, you are recognized. [LB235]

SENATOR COUNCIL: Thank you, Mr. President. I rise in support of advancing LB235, but I wanted to go on the record. I have listened to the debate over Senator Krist's amendment, and I don't know that I necessarily heard the reason why I, as a member of the Education Committee, voted to advance LB235, but that was to ensure that as much General Fund money as possible would be appropriated to state aid for education, and that as much money as possible be appropriated in the most fair and equitable way possible. I don't disagree with those who I heard on the mike saying that this state has a much larger obligation, in my opinion, to fund state aid...to fund education. And I had

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listened to the reasoning behind Senator Krist's amendment and I understood it, because as a former school board president, have had the opportunity to deal with the issues of equitable financing of public education from a local, state, and national perspective. And for those of you who have education backgrounds or are interested in it, I don't think it can be disputed that all educational experts say that funding public education through property taxes is the most inherently inequitable way to fund public education, and that in this state, in my opinion, because we have a constitutional mandate to provide for a free and public education, that we should be looking for ways to provide additional state aid to public education rather than relying upon the inequitable system of property tax funding of the various districts throughout the state of Nebraska; that we wouldn't have to deal with the issue presented by Senator Krist in his amendment to require that every school district would levy at a certain amount before they were entitled to state aid. I think that as a member of the Education Committee as we go forward, that we need to look at a way to provide for additional state aid to education in an equitable manner without the necessity of imposing an additional obligation on local taxpayers. And that's going to be a difficult challenge because of the vast differences that exist across this state in terms of how real property is valued, how real property is levied upon, what rates real property is levied at. It's going to be a very, very difficult challenge. And I will tell this body and my colleagues on the Education Committee, and I know that Senator Adams has worked hard and the members of the Education Committee have worked hard at coming up with a sustainable method of funding public education in the state of Nebraska, but I'm going to state now, as we go forward, that... [LB235]

SPEAKER FLOOD: One minute. [LB235]

SENATOR COUNCIL: ...my primary objective is to provide adequate funding of public education in the state of Nebraska, and that if that adequacy presents issues of sustainability, then I think we need to make the tough decisions and carry out our constitutional mandate to provide the necessary funding to provide a quality free and public education for every child in the state of Nebraska. And with that said, I would urge the body to advance LB235. [LB235]

SPEAKER FLOOD: Thank you, Senator Council. Senator Ken Haar, you are recognized. [LB235]

SENATOR HAAR: Mr. President and members of the body, again I want to thank Senator Krist for his opportunity to discuss what we just got through with. I've made no bones about it when I talk to people, my top priority is K through 12 education. If you miss something in 3rd grade, it just might not be ever made up again. If there's more money because of an improving economy, as I hope there is, we'll see more money for education. I would just like to say, as a member of the Education Committee for three years now, there's some parts of TEEOSA that are still foreign ground to me, but there

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are some nice aids. If people would like to learn more about it, there's one called "School Finance Made Easy" that was done by Senator Adams' office, and also any of the reports we get from the Department of Education. You can order those up as spreadsheets if you'd like. And I took A4, which listed all the schools and the "State Aid Change as a Percent of Formula Need," and where Lincoln Public Schools lost 4.46 percent--and I'm very sorry about that--but there are schools who lost as much as 19 percent and there are schools who actually gained. So it's an easy way to look at the schools, once those come out, and if you'd like to get that, it's possible. But again I want to thank the Education Committee for the job it's done. As more money becomes available, I hope we can hope put more money into funding education. Thank you. [LB235]

SPEAKER FLOOD: Thank you, Senator Ken Haar. Senator Conrad, you are recognized. [LB235]

SENATOR CONRAD: Thank you, Mr. President. And, colleagues, I think that I had a chance to include in the record some of the key distinctions about the core of what the state aid formula is and how the needs, the core needs, of students have been ratcheted down through this proposal to meet our budgetary obligations. And I think it is important that we do utilize and talk in the accurate and real numbers and that we accurately account for and portray the impacts and aftereffects of how stimulus dollars or federal stabilization dollars intersected with that funding stream and general revenue contribution over the past few years and fiscal cycles indeed. And just as a final note, again many thanks to Senator Krist for filing the amendment this morning, Senator Adams and members of the committee who have worked diligently on these issues and provided helpful and informative debate this morning. And just on a final note, I am very gratified that the motion to call the question failed this morning, because, don't forget, this proposal is a \$1.7 billion proposal. It deserves at least an hour and a half of our time and attention. And this debate in the only deliberative body in this state should be afforded the opportunity to carry out and conclude itself. Thank you, Mr. President. [LB235]

SPEAKER FLOOD: Thank you, Senator Conrad. Senator Cook, you are recognized. [LB235]

SENATOR COOK: Thank you, Mr. President. Good morning, colleagues. I will yield my time to Senator Conrad if she would like it. [LB235]

SPEAKER FLOOD: Senator Conrad appreciates your offer but waives her opportunity. [LB235]

SENATOR COOK: All right. Thank you very much. [LB235]

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SPEAKER FLOOD: Thank you, Senator Cook. Senator Conrad, there are no other lights on. Members, the motion before the body is, shall LB235 advance to E&R for engrossing? All those in favor say aye. Those opposed say nay. LB235 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB229. [LB235 LB229]

CLERK: LB229, Mr. President. Senator Larson, I have Enrollment and Review amendments, first of all, Senator. (ER76, Legislative Journal page 1039.) [LB229]

SPEAKER FLOOD: Senator Larson for a motion. [LB229]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB229 be adopted. [LB229]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. Mr. Clerk. [LB229]

CLERK: Mr. President. Senator Langemeier, I now have FA13 but with a note you want to withdraw that, Senator. [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SPEAKER FLOOD: FA19 is withdrawn. [LB229]

CLERK: Mr. President, Senator Langemeier would move to amend with AM1188. (Legislative Journal page 1180.) [LB229]

SPEAKER FLOOD: Senator Langemeier, you are recognized to open on AM1188. [LB229]

SENATOR LANGEMEIER: Mr. President, members of the body, when we left LB229 in the discussion room before we passed it on General File, we left a couple X's in the bill, and I told you that we would work on those benchmarks and we would come back with what they should be and how they're going to work--and we have done that. I, first of all, want to thank all my colleagues that came to the meetings. I want to thank all the people on both sides of this issue, whether it was agriculture or whether it was on the Environmental Trust. And we've appreciated everybody around the table with really a passion for water and a passion for our natural resources on both sides, and it was sure a pleasure to have that discussion with all of you. The three benchmarks that we came up with I think are pretty good; although, as I reread them this morning, it gives me more work, which I should have thought of that a little sooner. The first benchmark is the Natural Resources Committee will create and issue a report. As part of this, I'm going to introduce a legislative resolution at the end of the session that's going to bring all these same individuals again back together this summer, and we're going to try and talk about

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what are the future needs for water in Nebraska, as well as what are future funding sources for them, and to try and meet those needs. And so our benchmark, it says we have to do that, and I thank my committee for their willingness so far to participate in that and go forward. The second one is the Department of Natural Resources has to create a report for the Legislature to demonstrate that the projects funded by the trust grants have resulted in water conservation, enhancements, and restoration. We've got to prove that what we use the money for is what we were supposed to use the money for. And the third one is the Department of Natural Resources will also, before this three-year extension or grant application, by July 1, 2014, the Department of Natural Resources has to demonstrate that the NRDs did their 40 percent match. And a lot of this discussion about the 40 percent match was how do we deal with in-kind issues. And so we put in there that 10 percent or less of the matching fund requirement can be something offered by an NRD, whether that's labor or whether it's the use of some piece of equipment that they have in a project or something like that, but excludes land rights. So if an NRD has bought a piece of land that would work towards a conservation project, they would get the value of that land as part of their match. And so with that, again we want to appreciate everybody on the three benchmarks. It was a good discussion by all, and this will complete, hopefully, everything we needed to do to this point, and everybody was on board. So we would ask for your adoption of AM1188. Thank you, Mr. President. [LB229]

SPEAKER FLOOD: Thank you, Senator Langemeier. Members, you've heard the opening on AM1188. Senator Mello, you are recognized. [LB229]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of AM1188 and want to thank again Senator Langemeier and Senator Fischer, Heidemann, Avery, Ken Haar, Burke Harr, all of the senators from the Natural Resources Committee who were there to help work on this amendment which establishes some benchmarks and provides some technical cleanup language on the underlying bill, LB229. Some of the aspects that were part of this compromise that is part of this amendment, as well as the amendment on General File, is that it creates a subaccount within the Water Resources Cash Fund to allow grant dollars that gets awarded to the Department of Natural Resources to be able to be tracked in a more transparent manner. That's a critical component. That was an issue that was discussed so that we could see where Environmental Trust dollars...through the grant process, where those dollars go. Because right now, currently, under existing state statute, there is an annual report that's given out by the Department of Natural Resources to the Legislature to provide information on how the existing Water Resources Cash Fund dollars are being spent. So that money, if it's going to an NRD, the department is to provide us this annual report to show us where that money goes and for what projects specifically those funds are going. So this kind of dovetails with that existing process, so that we know, as a Legislature, where these Environmental Trust dollars will be going through that annual report they provide us; so that the money, if it's going to an NRD,

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we kind of know what it's being used for--if it's being used to get more water into the river, if it's being used to reduce consumptive uses of water, potential recharging of groundwater, wildlife habitat, improvements. That's something that's beneficial to us and I think the transparency components that those...some of us really wanted to see with the amendments, AM1188, under LB229. The other main component, too, is the benchmarks that Senator Langemeier just mentioned is really I think the crux of the continuation of potential grant funding through the Water Resources Cash Fund. And I think that's the critical component that I know some of those who questioned whether or not we needed to do LB229 on General File and some of the amendments, for the department to be able to apply again for those second three years of grant funding, they have to meet these benchmarks that are laid out in AM1188, which is critical. I mean I think that was the crux of the compromise and agreement that Senator Heidemann and Fischer and Langemeier, Dubas, everyone as we discussed this on General File. These benchmarks really lay out that continuation of funding, as Senator Langemeier mentioned. He's taken the lead, as the Chairman of the Natural Resources Committee, to move forward with the interim study component so that we could look for a sustainable financing stream for the Water Resources Cash Fund and water funding, in general, for the state. So I stand in support of AM1188 and want to make sure that, for the record, we explain a little bit more about some of the intricacies of this amendment, because it's fairly critical, I think, to the longevity of what we're trying to do with these benchmarks; that they do have to be met by year three for the department to be able to apply again, and there are benchmarks that were created collaboratively with various conservation, environmental, and agriculture organizations, as well as various senators from across the state who feel that this is an important issue and want to ensure the integrity of the grant-making process through the Environmental Trust. [LB229]

SPEAKER FLOOD: One minute. [LB229]

SENATOR MELLO: So with that, Mr. President, I support AM1188 and the underlying bill, LB229. Thank you. [LB229]

SPEAKER FLOOD: Thank you, Senator Mello. Senator Avery, you are recognized. [LB229]

SENATOR AVERY: Thank you, Mr. President. As Senator Langemeier said, this amendment represents a lot of hard work by people who were involved in that first-round debate. And we did come to an agreement and I think it's a good one and worthy of your support. The goal all along was to get money into the Water Resources Cash Fund and to leverage with the local NRD money and other resources to achieve the goals of that cash fund. The NRDs, under this amendment, have to come up with a 40 percent match of local funds. The goal is that they can use current resources rather than using in-kind. We put a cap of 10 percent on in-kind contributions to that 40 percent match. When I say current resources, we're talking about hard dollars here.

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That was something we talked about quite extensively. Anyone who gets a grant from the cash fund has to have at least a 40 percent match as well. There was a lot of discussion about the 10 percent cap on in-kind contributions. The whole goal here was to make sure that the 40 percent match could not be comprised of largely secretarial time and this kind of soft money or in-kind contribution. We were looking for hard currencies, or at least hard assets. If the trust is putting money into the cash fund, the state is putting money into the cash fund, the NRDs ought to also put money into the cash fund, and that is what we are doing with this amendment. And the goal here, of course, is to conserve and enhance and restore Nebraska's groundwater and surface water. I think it's important for us to remember that never did anybody object to the environmental interests that we had in the Platte River Recovery Program. Never was there any question raised about whether the goal of putting more money into that cash fund was wrong. This is certainly consistent with the purposes of the Nebraska Environmental Trust. The problem was for me, on General File, was the procedure, because I felt like the way it was going and certainly the green copy did not keep faith with the voters who had voted on this in a referendum. So what we're doing here with this amendment is right, I believe, because it does maintain the grant process. It does make sure that everybody has some skin in the game. And it is consistent, I believe, with the intent of the vote that was taken in 2004. The amendment will specifically define what in-kind contributions mean. It means expenses that are incurred other than direct payment for projects enumerated in the grant application. The goal is that the NRD cannot use an expenditure made years ago or a study that is already sitting on the shelf and say this is an in-kind contribution, and other limitations. [LB229]

SPEAKER FLOOD: One minute. [LB229]

SENATOR AVERY: The expenditure has to be for an expense that was incurred recently and for projects that the Department of Natural Resources states in the grant application. So this is a good amendment and it does what I think most of us who were in opposition to it on General File were trying to get done. The process worked and I think you can be happy with the product. So with that, I would urge you to support the amendment and then the underlying bill. Thank you, Mr. President. [LB229]

SPEAKER FLOOD: Thank you. Senator Harms, you are recognized. [LB229]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM1188 as well as the underlying bill, LB229. You know, colleagues, I've had the opportunity from a distance to watch Senator Langemeier work with two very complex issues. One was a year ago when he took on the issue of wind energy. He brought a lot of diverse groups together, and in the middle road we got a landmark...brought it all to the middle road and we ended up with a landmark piece of legislation. And from a distance, again I've had the opportunity to watch him take a very complex topic, people who have some very strong emotional issues...concerns about this particular project,

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and again he brought them to the middle of the road. And I want to thank him very much for that, because that's a skill. And the art of compromise...a lot of the art of politics is compromise, and he seems to have that ability to do that. So I thank him for those, for taking a part in this. I just want to make sure that we understand that the money that is granted to the Water Resources Cash Fund for the Environmental Trust is truly contingent on the Legislature's appropriating and transferring \$3.3 million annually into the Water Resources Cash Fund. We need to also understand that the Legislature cannot bind future Legislatures regarding the third year of this appropriations. But it's clear that the intention to provide \$3.3 million in the third year of a grant is present. And without that third-year appropriation, the NET will not transfer the third year of the grant. So it's important for us to understand that this is long-term at this point and they're going to have a third year where we're going to have to bring this back and we're going to have to have this discussion. As I said, this is a three-year grant only. The second-year grant can be applied for if certain criteria that are set out in the statutes are met. And if they're not met, then the intention is that the third-year grant will not be granted priority points. So I think it's important for us to understand as we put this together, with the intent that Senator Langemeier and his committee has taken, that we'll have a third-year question and that we're going to have to make sure we're committed to that so we can provide the necessary assistance for the Water Resources Cash Fund. So I would urge you to support AM1188 and the underlying bill, LB229. Thank you, Mr. President.
[LB229]

SPEAKER FLOOD: Senator Harms, thank you very much. (Visitors introduced.) Continuing with discussion on AM1188 to LB229, Senator Burke Harr, you are recognized. [LB229]

SENATOR HARR: Thank you, Mr. Speaker. And I'm going to join the lovefest here, because I want to thank everyone for all their hard work on this legislation. Senator Langemeier and I were talking about it earlier, and it's amazing how many senators were involved with this but also outside interest groups who came together and put aside their differences. And I just want to clarify for the record what was said in those meetings. And basically what we're looking at here is this amendment makes it clear that the Department of Natural Resources is applying for a grant, and this grant process is no different than any other grant that's applied for by the individuals in front of the Environmental Trust Fund Board. The grant has to set out what the money will be used for. The money can be granted, by the trust, can only be used for what is specifically listed in the grant. And what that means is that the money can't be used for any purposes that the department wants, and these items that are specifically...and the items must be specifically set forth in the Water Cash Fund statutes. As part of the grant process, it is the intent of the Legislature...well, at least from what I understood from our negotiation, that the department follow the rules and reporting requirements of the Environmental Trust Fund. And I think that's important that we set this forth, that this is a grant and it isn't us legislating what and where the money is going, so that if there is a

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problem in the future, we know that we wanted to apply for a grant if those criteria are met and if everyone does what they're supposed to do--and let's hope it is, because I think the benchmarks are great and it really progresses the state--that there are another three years in there. And so thank you very much and thank you for everyone's hard work on this. [LB229]

SPEAKER FLOOD: Senator Burke Harr, thank you. Senator Ken Haar, you are recognized. [LB229]

SENATOR HAAR: Mr. President, members of the body, I mentioned on General File that this was asking the troops to stand down, and now we're, of course, talking about the troops crossing the line and working together. And I think "General Langemeier" will be up to that task. Just for the record, since this has been a heated debate at times off the mike and on the mike, I would like to get some things on the record and for people who are watching us today. So I wonder if Senator Langemeier would be available for some... [LB229]

SPEAKER FLOOD: Senator Langemeier, will you yield to a question from Senator Ken Haar? [LB229]

SENATOR HAAR: Or "General Langemeier." [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR HAAR: First of all, thanks for all the work you've done on this. Appreciate it. Okay, the first benchmark states the Natural Resources Committee is going to come up with a report for long-term water funding. And it's my understanding this doesn't mean that the Natural Resources Committee alone will do the work, but there is going to be a task force established to work on the concept of a water plan. And the bill specifically states that the goal is, quote, to create a priority listing of water management and funding needs in Nebraska, including instream flows, residential, agriculture, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitat, and to create an outline of statewide sustainable and dedicated funding sources. Does that summarize it pretty well? [LB229]

SENATOR LANGEMEIER: Well stated. [LB229]

SENATOR HAAR: Good. I have a good LA. Also you're going to create that task force soon, or summer, or do you know when you're...? [LB229]

SENATOR LANGEMEIER: Well, we'll turn that in as a legislative resolution. We'll do that in the last ten days of this session, and then we're still...have all those parties that are involved in some of that discussion. I've learned what an environmentalist is versus

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a conservationist was some of our argue about the membership of that. And so as that is out there being floated, that legislative resolution right now is being floated, we'll introduce that in the last ten days, and then we will probably start looking at that in July. [LB229]

SENATOR HAAR: Okay. Thank you very much. Fortunately, we weren't shooting at each other before the compromise, so this is very good. I would also like to ask Senator Fischer a question if I could. [LB229]

SPEAKER FLOOD: Senator Fischer, will you yield to a question from Senator Ken Haar? [LB229]

SENATOR FISCHER: Yes, I will. [LB229]

SENATOR HAAR: Thank you very much. We can work together. [LB229]

SENATOR FISCHER: We always do, Senator. [LB229]

SENATOR HAAR: Thank you. You heard what I just read, this statement. Would you agree that that's the intention of the bill? [LB229]

SENATOR FISCHER: Oh, certainly that's the intent. The intent of the original bill was to get us all off center. As Dave Sands said, sometimes you have to shake people up in order to reach your goals. So I appreciated working with everyone in our final bill now. [LB229]

SENATOR HAAR: Good. Thank you very much. One of my concerns with the original bill is it really created the two opposing camps, and it's my expectation that, going forward now, we do have the conservation groups, the environmental groups, the ag groups, etcetera, all working together on this. And so if there is a solution to be found, I think this will be the way to do it. Thank you very much. [LB229]

SPEAKER FLOOD: Thank you, Senator Ken Haar. Senator Conrad, you are recognized. [LB229]

SENATOR CONRAD: Thank you, Mr. President. And indeed I think Senator Haar is correct and others who have noted that this is a clear example of legislative harmony and hard work amongst many divergent and varied interests related to this issue, and I think we all add our congratulations to that. I believe that AM1188 as presented makes significant and dramatic improvements over the original legislation as it was proposed, which contained a \$77 million earmark for these specific water interests, and I felt really broke our compact with the voters of Nebraska who have twice voted on these issues and have stated very clearly what their intent was for the utilization of these funds and

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the protection of our environment as a whole. I also believe that historically the Environmental Trust has done a very, very good job of meeting the statewide needs and interests related to the preservation, conservation, and protection of our environment, and I am happy to see that the proposed amendment does maintain the integrity of the trust and the grant process to a certain extent, but I'm still concerned how the \$9.9 million earmark which is contained in this legislation...and again, I think it is making important progress forward...doesn't...and I haven't heard anybody talk specifically. I asked the questions to Senator Langemeier on General File about the constitutional issues at play with this legislation. It was reported back that the Attorney General had offered some sort of a formal or informal opinion that LB229, as introduced, was I guess, quote unquote, constitutional or legal. And, of course, the bill has been amended many times since then, and I don't know if we have a formal or informal opinion from the Attorney General's Office on those very same concerns. If we do, I think it would be helpful if members had an opportunity to review that, which we have not had an opportunity to review. I haven't seen anything about that and it doesn't mean it doesn't exist at the committee level. And, of course, that has to be taken with a grain of salt as well. The Attorney General's Office can offer a lot of important guidance and helpful information as we struggle with difficult issues from a legal and policy perspective, but, of course, the conclusions in those opinions are not the final arbiter and we have to make these policy choices, and we have to keep faith with the legal constraints that we operate within. And I can tell you, my e-mail in-box is still full from people who have a lot of concerns about this legislation and really see it as a continuing raid that does indeed impact the integrity of the Environmental Trust and the vote of the people on this very issue. So I'd be heartened if any members could talk a little bit more about those issues, because I think it would be helpful to senators who weren't involved in the process to have an understanding about those critical issues, and for the public as well. Thank you. [LB229]

SPEAKER FLOOD: Thank you, Senator Conrad. Senator Wallman, you are recognized. [LB229]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Senator Fischer tackled a tough issue here, and I think the body owes the Environmental Trust a huge thanks. Where did they get their money from? Keno. And so we're giving a little better process, otherwise I'd hate to have exact earmarks from a certain agency which has a different, maybe, view. But water issues are important, and so I think we owe a big thanks to the Environmental Trust. Thank you, Mr. President. [LB229]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Ken Haar, you are recognized. [LB229]

SENATOR HAAR: Mr. President and members of the body, again just some things for the record here. If I could ask Senator Langemeier... [LB229]

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SPEAKER FLOOD: Senator Langemeier, will you yield to a question from Senator Ken Haar? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR HAAR: Okay, thank you. Again for the record, and it's my understanding that our goal is to leverage as many funds as possible with these state and trust monies to assist the river basin. So is it the goal that money spent from the fund be leveraged, in your opinion? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR HAAR: Okay. And then, two, are we going...are we trying to get other resources from the federal government, non-GO's, private resources to match the funds from the trust? [LB229]

SENATOR LANGEMEIER: Right. As we talked about on General File, that will be leveraged with the Department of Interior, Wyoming, Colorado, if you're talking about the Platte River Recovery project. Yes. [LB229]

SENATOR HAAR: Okay. And then we're not intending the department spend the money without match, if possible. [LB229]

SENATOR LANGEMEIER: No. [LB229]

SENATOR HAAR: Okay. [LB229]

SENATOR LANGEMEIER: No, they're going...right. They're going to go out and partner in these projects. [LB229]

SENATOR HAAR: Okay, very good. [LB229]

SENATOR LANGEMEIER: We don't have near enough money to do anything on our own. [LB229]

SENATOR HAAR: (Laugh) Thank you very much. Appreciate it. In responding a little bit to Senator Conrad, some of the key features of this, I believe, are that the money will go through the regular process of the trust. Specific projects will have to be proposed and the trust will have to act on individual projects. So there's not just \$3.3 million going immediately. Again, that will all have to go through the regular trust process, even assigning points and so on. Then a second very important point about this is, I talk about it as a sunset/sunrise/sunset bill. It sunsets after three years if all the benchmarks

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aren't reached. And the benchmarks have been talked about already. If those benchmarks aren't reached, again it's up to a new Legislature, but it would automatically sunset. If the benchmarks are reached, then the DNR may--not shall but may, I believe, is the word--request that kind of funding for another three years. So those are some of the key proposals I think that make this much, much different than that original bill. So again I'm pleased with the compromise. I support LB229, AM1188, and all the effort that went into this. Thank you. [LB229]

SPEAKER FLOOD: Thank you, Senator Ken Haar. Senator Louden, you are recognized. [LB229]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. Would Senator Langemeier yield for questions? [LB229]

SPEAKER FLOOD Senator Langemeier, will you yield to a question from Senator Louden? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR LOUDEN: Thank you. If when I look on this here where there's, on page 2 of the amendment, I guess, it changes from \$2,700,000 to \$3,300,000 every year. Now that \$2,700,000, that's been in statute and that money has been going from the General Fund over to that Water Resources Cash Fund for several years. Isn't that correct? That's... [LB229]

SENATOR LANGEMEIER: That is correct. [LB229]

SENATOR LOUDEN: ...over a period of years. Now you've raised that to \$3,300,000. Now does that, the way this works with the Environmental Trust, you have to have match money in order to get that grant funding out of there. Is that how this is going to work? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR LOUDEN: And that's the reason you've raised it to the \$3,300,000. Then how much of that is the Environmental Trust supposed to grant? Dollar for dollar, or how? [LB229]

SENATOR LANGEMEIER: Right. This starts out as the initial match is \$3.3 million from the Environmental Trust, \$3.3 million from General Funds. They're going to put that together and then match it again with the 40 percent, and as Senator Haar and I talked about, the match with the Department of Interior, Colorado, and Wyoming. So we'll match it again. [LB229]

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SENATOR LOUDEN: And that's part of that Platte River Recovery project deal. [LB229]

SENATOR LANGEMEIER: Right. [LB229]

SENATOR LOUDEN: Yeah, with the in-kind. Now the federal government is matching that money, or is Colorado and Wyoming doing their own thing? [LB229]

SENATOR LANGEMEIER: The Department of Interior...in the Platte River Recovery project, the Department of Interior has been willing to put up money. Wyoming and Colorado have put up separate money,... [LB229]

SENATOR LOUDEN: Yeah, but... [LB229]

SENATOR LANGEMEIER: ...so they'll all contribute. [LB229]

SENATOR LOUDEN: Right. But there's...is that, that the Wyoming and Colorado put up, is that...is that...does the Department of Interior match that also, or is that, that they have to put that up on their own? [LB229]

SENATOR LANGEMEIER: I'm not quite sure of the question but I'm going to try and answer it to my limited understanding of it. Part of the Platte River Recovery, when it was first established, there was at a dollar figure that Colorado was going to put in, a dollar figure Wyoming was going to put in, and a dollar figure the Department of Interior was going to put in. And then Nebraska had to do some in-kind things. We had to do...buy some...retire some acres, some wetland habitat, or restoration, some things we're going to do with McConaughy and so on and so forth. And so now we have the opportunity to purchase into those projects to have some long-term benefits for Nebraska, and that's where this money is going to go. So they're all putting it into a pool that we're going to match into. [LB229]

SENATOR LOUDEN: Yeah, I understand that, but I was wondering, this happens to be some in-kind money that, I don't know, was it designated early on that we had to put up money, because Wyoming and Colorado had to, but Nebraska was going to do a lot of in-kind projects. I think they gave them some land and retired some irrigated ground and stuff like that. And that's what I'm wondering what this...will this be used to increase the flows on the Platte River? What will this money be used for? Because some of the other projects on there are already being funded by the Department of Interior and Wyoming and Colorado, is that correct? [LB229]

SENATOR LANGEMEIER: The initial Platte River Recovery was set up where Nebraska had to do some in-kind things. We didn't have to put cash into it. But as that has developed, Nebraska has looked at it and said, hey, there's some benefits there.

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Let's say, for example, the city of Kearney, if they need to expand, they get a business there, they need more water. Right now, with LB962 and the way it's implemented, if Kearney needs to expand... [LB229]

SPEAKER FLOOD: One minute. [LB229]

SENATOR LANGEMEIER: ...their water supply, they have got to do offsets. So we have an opportunity to buy into this Platte River Recovery with some cash into the retiming of McConaughy and some other things. [LB229]

SENATOR LOUDEN: Okay. [LB229]

SENATOR LANGEMEIER: And by that benefit of buying into it, we have the opportunity to trade that off so Kearney could grow, Grand Island could grow, and other communities. [LB229]

SENATOR LOUDEN: Then actually we're buying into some new projects that probably weren't in the original Platte River Recovery Program. Is that... [LB229]

SENATOR LANGEMEIER: We're buying into some benefits of those projects that were in the Platte River Recovery. [LB229]

SENATOR LOUDEN: Yeah. Now one last question, here on Section 4 and 5, where the State Treasurer puts \$600,000 from the General Fund, what is that money...what's the reason for that money? [LB229]

SENATOR LANGEMEIER: We have to...because we already have in statute that we're going to transfer \$2.7 million. But as you stated earlier, we got to get to \$2.3 million in General Funds; so that money, plus the \$2.7 million that's already appropriated, creates the \$3.3 million of state General Funds. [LB229]

SENATOR LOUDEN: Okay. That's to make your math come out right? [LB229]

SENATOR KRIST PRESIDING

SENATOR KRIST: Time. [LB229]

SENATOR LOUDEN: Thank you, Mr. President. [LB229]

SENATOR KRIST: Thank you, Senator Langemeier and Senator Louden. The Speaker for an announcement, please. [LB229]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. Earlier in the

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week I advised you that if we moved along at the rate we wanted to be going, that we would do consent calendar on Thursday. We still have a lot of our Select File ahead of us. For that reason, we are not going to take up consent calendar tomorrow morning. We're going to stay on Select File bills through tomorrow adjournment. Thank you, Mr. President.

SENATOR KRIST: Thank you, Speaker. Continuing with discussion, Senator Carlson, you're recognized. [LB229]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I simply want to briefly expand on Senator Avery's testimony and why I think that LB229 will work and will work very well. First of all, we start with a grant from the Environmental Trust as a hundred-cent dollars, and the requirement in the bill is that General Fund dollars match that 100 percent. Senator Avery mentioned that. And then NRDs that apply for a grant will have to match at least 40 percent--40 percent or more. Senator Avery mentioned that. But the other good part about this is that there will be an attempt with federal dollars and federal groups for additional matching dollars that could well be hundred-cent dollars or perhaps even more. Certainly I've experienced that in the work in removing vegetation from the Republican and Platte Rivers. We've gotten good federal dollars to help with that project. And there could be other conservation, other environmental groups, other recreation groups that enter in and provide dollars, depending on what the project is. So I think it's entirely possible we start with a grant from the Environmental Trust. It could be multiplied four times by the time that the project is completed, and that's what makes the bill very, very effective. Thank you, Mr. President. [LB229]

SENATOR KRIST: Thank you, Senator Carlson. Senator Council, you are recognized. [LB229]

SENATOR COUNCIL: Thank you, Mr. President. I want to begin by joining those who have acknowledged the amount of work that has been put in by the Chair and members of the Natural Resources Committee and other members of this body, and apparently stakeholders, to address many of the issues that were raised when LB229 was first brought to the floor on General File. And I have listened intently. I've read the amendment and have a basic understanding of what the amendment provides. But I must state for the record that I still share the concern about maintaining the trust of the voters and the integrity of the Environmental Trust. And it's for this reason, number one, I, like I think it was Senator Conrad, I continue to get e-mails from individuals in the state who are concerned about this use of the Environmental Trust. And throughout debate on other issues--in fact, as recently as yesterday--we talked about the need for transparency and accountability. And all of AM1188 and everything that is sought to be accomplished here is to get \$3.3 million a year over the next three years into the Water Resources Cash Fund. That's the objective and that's pretty clear. And while we talk

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about the bill coming into compliance with and conforming with the requirements of the Environmental Trust in terms of the grant process, if Senator Langemeier would yield to a question. [LB229]

SENATOR KRIST: Senator Langemeier, will you yield for a question? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR COUNCIL: I look at page 4 of AM1188, and (7)(b) says, "If the application is granted, funds received from such grant shall be remitted," and then it goes on. I noted that there was nothing in AM1188 that speaks to what should occur if the grant is not...if the application is not granted. Will...is it the intent that the Legislature still appropriate \$3.3 million a year to the Water Resources Fund? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR COUNCIL: And where is that reflected in AM1188? [LB229]

SENATOR LANGEMEIER: We have in statute here that we're going to appropriate \$3.3 million from General Funds into the Water Cash Fund. What you're talking about on there is the Environmental Trust, whether they grant it. I think they'll grant it, but if they don't, they don't. We'll still have the match in there, and Senator Louden brought it up in the back--I'll get you the exact section in a second--section (4), where we already make our transfer. The Legislature, in our budgeting process, if they don't do it, you know, you'll have the opportunity to come back and take that money back. [LB229]

SENATOR COUNCIL: Okay. So, but the way the amendment is drafted, it builds upon the \$2.7 million that apparently is in the Appropriations Committee's proposed budget, and AM1188 provides for \$600,000 additional dollars per year. That's the \$3.3 million. So that's a direct appropriation to the Water Resources Fund, and that's going to occur regardless of whether or not the Nebraska... [LB229]

SENATOR KRIST: One minute. [LB229]

SENATOR COUNCIL: ...Environmental Trust grants...approves a grant application from the Department of Natural Resources. [LB229]

SENATOR LANGEMEIER: It's automatically going to happen. And then if you deal with the budget next year, and I'll be here, if we don't get this grant, then we're going to look at the budget and we'll look at that money again. [LB229]

SENATOR COUNCIL: Okay. Now in terms of the expectation of an additional three-year grant, I guess I was kind of curious as to why some of the provisions for the extension of

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the grant aren't also some of the things that guide what should occur if the first application is granted. For example, the... [LB229]

SENATOR KRIST: Time. [LB229]

SENATOR COUNCIL: Is that time? Thank you. [LB229]

SENATOR KRIST: Seeing no other lights on in the queue, Senator Langemeier, you are recognized to close on your amendment. [LB229]

SENATOR LANGEMEIER: Mr. President and members of the body, this takes LB229, with the passage of what we did on General File as well as this rewrite on AM1188, it takes this request a different direction than just requesting the Environmental Trust to give us some money. This makes us apply, just like everyone else applies to the Environmental Trust, which they are very appreciative of. They have demonstrated over the years that they have done multiyear grants, and so this asks for a multiyear grant with one application. And it sets benchmarks so what we can do in the future in three years, whether or not they will continue this funding. We'll see if these benchmarks get met. And so with that, we'd ask for your adoption of AM1188. Thank you. [LB229]

SENATOR KRIST: Thank you, Senator Langemeier. The question is, shall the amendment, AM1188, be adopted to LB229? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Mr. Clerk. [LB229]

CLERK: 37 ayes, 1 nay, Mr. President, on the adoption of the amendment. [LB229]

SENATOR KRIST: The amendment is adopted. [LB229]

CLERK: I have nothing further on the bill, Mr. President. [LB229]

SENATOR KRIST: Senator Conrad, for what purpose do you rise? [LB229]

SENATOR CONRAD: I'd like to request a record vote, please, on the advancement of LB229. [LB229]

SENATOR KRIST: There has been a request for a record vote. Senator Harr, you're recognized for a motion. [LB229]

SENATOR HARR: Mr. President, I move that the E&R amendments to LB229 be adopted. Is that what I'm doing? [LB229]

SENATOR KRIST: Machine vote. You are requesting for a...Senator, for what do you rise? Senator McGill, for what reason do you... [LB229]

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SENATOR MCGILL: Mr. President, I move LB229 to E&R for engrossing. (Laugh)
[LB229]

SENATOR KRIST: Okay. There's been a request for a record vote. We'll do a machine vote. All those in favor vote aye; all those opposed, nay. Mr. Clerk. [LB229]

CLERK: (Record vote read, Legislative Journal page 1186.) 34 ayes, 4 nays, Mr. President, on the advancement of LB229. [LB229]

SENATOR KRIST: The bill passes. And the Speaker for an announcement, please.
[LB229]

SPEAKER FLOOD: Thank you, Mr. President and members. Good morning again. I also wanted to call your attention today, when we recess at or about noon, we're going to be reconvening this afternoon at 2:00 p.m.--2:00 p.m. instead of 1:30--to give the Business and Labor Committee time for a hearing scheduled that begins at noon. So upon recess today, we will reconvene today at 2:00 p.m. Thank you, Mr. President.

SENATOR KRIST: Thank you, Speaker. Mr. Clerk.

CLERK: Mr. President, the next bill, LB229A. Senator Harr, I have Enrollment and Review amendments pending. (ER77, Legislative Journal page 1044.) [LB229A]

SENATOR KRIST: Senator Harr for a motion. [LB229A]

SENATOR HARR: Thank you. Mr. President, I move the E&R amendment to LB229 be adopted--LB229A. [LB229A]

SENATOR KRIST: All those in favor say aye. All those opposed, nay. All opposed, nay. The ayes have it. It's moved. [LB229A]

CLERK: I have nothing further on that bill, Senator. [LB229A]

SENATOR KRIST: Senator Harr for a motion. [LB229A]

SENATOR HARR: Thank you, Mr. President. I move that LB229A be advanced to E&R for engrossing. [LB229A]

SENATOR KRIST: Thank you, Senator Harr. All those in favor, aye. Opposed, nay. The ayes have it. It's moved. No. Mr. Clerk. [LB229A]

CLERK: Mr. President, the next bill is LB628. The bill was discussed yesterday.

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Enrollment and Review amendments were adopted. There was an amendment by Senator Bloomfield that was adopted. Mr. President, the next amendment for consideration, Senator Bloomfield, AM1200. (Legislative Journal page 1186.) [LB628]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Senator Bloomfield, you are recognized to open on AM1200. [LB628]

SENATOR BLOOMFIELD: Thank you, Mr. President, members. This amendment simply allows veterans' organizations, such as the American Legion, to benefit from the giveaway that we are doing with LB628. I have not yet brought myself to the position where I can support LB628. But if we are, in fact, going to give away public property, I think our veterans' organizations should be in line to receive some of that property. I am having passed out, as we speak--this came up a little quicker than I thought it might--what (c)(19) is, is a nonprofit organization. The original bill covers 501(c)(3)s, I believe it is, and this adds the nonprofit organization that includes the American Legion, the Legion Auxiliary, the VFW, and such things. Take a quick minute to look at that. The first paragraph explains what they are, what you need to be to qualify. I think this is a good amendment to a bill that I'm not really all that excited about, and I would ask your support for it. Thank you. [LB628]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Bloomfield. You have heard the opening on AM1200 offered to LB628. Those wishing to speak, we have Senators Cook, Price, and Cornett. Senator Cook, you're recognized. [LB628]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise in tacit support of AM1200. I certainly am a big supporter of veterans and veterans' organizations, and did not wish to exclude them by identifying 501(c)(3)s as the kinds of nonprofit organizations. I do hope that this will encourage many of you who are on the fence about advancing the bill to go ahead and advance it in a few minutes. Thank you very much, Mr. President. [LB628]

SENATOR LANGEMEIER: Thank you, Senator Cook. Senator Price, you're recognized. [LB628]

SENATOR PRICE: Thank you, Mr. President. Members of the body, on this amendment I'm not really sure where we're going with this at the moment. I think I understand, and, of course, with veterans' issues I'm always interested. Perhaps when we talk about transporting veterans around for their appointments and things of that nature, there could be some value in doing that. But actually I rise to discuss the underlying bill. And I

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see through what we have on our beloved gadget that there are amendments up and coming to put a threshold on this. But I was wondering, would Senator Cook yield to a question? [LB628]

SENATOR LANGEMEIER: Senator Cook, would you yield? [LB628]

SENATOR COOK: Absolutely. [LB628]

SENATOR PRICE: Thank you very much. Senator Cook, in your bill right now I know we had discussion in committee and elsewhere that a part of the potential benefactors of this would be, you know, that the Nebraska Public Power could transfer a bucket truck, or I don't know if I'm using the right nomenclature, but one of their vehicles to another entity for charitable purposes. Is that correct? [LB628]

SENATOR COOK: That is one idea that has emerged that was brought forth by the Nebraska Rural Electric Association. [LB628]

SENATOR PRICE: Great. Do we know how that association would determine that a vehicle no longer is meeting their needs and that they want to get rid of it and that it would be a viable vehicle to transfer? [LB628]

SENATOR COOK: Senator Price, I cannot say that I am that familiar with the rules and regs related to physical plant or material acquired by power districts. [LB628]

SENATOR PRICE: Okay. [LB628]

SENATOR COOK: I would not be comfortable in answering how they depreciate or by what accounting method they would depreciate that piece of equipment. [LB628]

SENATOR PRICE: All right. Thank you very much, Senator Cook. You know, I missed the opportunity. I wish that Senator Langemeier or someone who I could talk to perhaps would be able to talk. Here's the concern: If...and I don't have a problem with taking and helping out, okay, and donating. I don't have a problem with that. But when we're entrusted with public monies to buy something and then the public entity wants to transfer a piece of equipment, hopefully the transferring a piece of equipment that is serviceable is still able to do it. I mean you wouldn't want to give someone a clunker or something that they're going to have to expend more money into it than the value of that product. So you're transferring a bucket truck to an entity, and the question comes to mind for me, is at what level? And what we see on the gadget, that would have a threshold maybe if the body feels they want to do that. But I don't know what these trucks go for. But would we have a \$15,000 bucket truck being shipped off to another state, maybe even another country, that used local tax dollars? So when we talk about this, a lot of times I was thinking the political subdivision of the county. But we have

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other public...with public power, we have a much larger and a greater number of political subdivisions that are using public monies to buy things. How about the NRD, if the NRD buys something and then they want to get it off their books? You know, Senator Lautenbaugh brought a great bill before the committee to say, hey, let's not wait till something depreciates so far down to \$250 before we get rid of it, because not only are we losing value by letting it sit there, but we're also having to pay for the space. So that makes really good sense to me that we could be a better steward of these resources. But what does concern me is that a political subdivision could sit there and say, guess what? [LB628]

SENATOR LANGEMEIER: One minute. [LB628]

SENATOR PRICE: Thank you. That we wouldn't...we weren't looking for more equipment but my books only let me have three of these widgets, so I'll declare one of the widgets or the vehicle as surplus, devalued, and give it away to a public entity or auction it off. And in this bill, there's no limit. If they wanted to--at their peril with their voters, I'll grant--but they could sit there and say we're going to move this \$15,000 vehicle off; now I don't have a vehicle. Now they go to the taxpayers and say: Can I have another vehicle, because I'm down one? A little nefarious perhaps, but a concern. We shouldn't be giving away things without a threshold. And thank you, Mr. President. That's what I had to say. [LB628]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator Cornett, you are recognized. [LB628]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Senator Bloomfield, earlier today, came to me and wanted to make sure that what a 501(c)(19) was, and I felt that I needed to explain exactly the groups that we were talking about exempting in this amendment. A 501(c)(19) are for postwar and retired veterans of foreign wars or current active duty military. To receive the federal tax-exempt status, they have to have 75 percent membership of those groups, but it can also include the Gold Star Wives, the spouses of the veterans. So just to clarify, what you'd be talking about is these vehicles could be donated to one of these exempt organizations like the VFW, Veterans of Foreign Wars, Gold Star Wives. The vehicles could be used for, as Senator Price mentioned, transportation of a veteran for medical purposes or just donate to a veteran that possibly needs a vehicle for transportation. Thank you. [LB628]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Seeing no other lights on, Senator Bloomfield, you are recognized to close on AM1200. [LB628]

SENATOR BLOOMFIELD: Thank you, Mr. President. I appreciate Senator Cook's rabid endorsement of this amendment. I would also like to thank Senator Cornett for her involvement in it. I think we had just unintentionally overlooked a very deserving group

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of people. You know, if we're going to give something away, we certainly need to consider the people that have given away their time, and possibly body parts, to serve this country. And I would ask for your support on this amendment. Thank you. [LB628]

SENATOR LANGEMEIER: Thank you, Senator Bloomfield. You have heard the closing on AM1200 offered to LB628. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB628]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Bloomfield's amendment. [LB628]

SENATOR LANGEMEIER: AM1200 is adopted. Mr. Clerk for a motion. [LB628]

CLERK: Senator Krist would move to amend, Mr. President, with AM1073. (Legislative Journal page 1178.) [LB628]

SENATOR LANGEMEIER: Thank you. Senator Krist, you are recognized to open on AM1073. [LB628]

SENATOR KRIST: Thank you, Mr. Speaker, colleagues. Initially, I wanted to talk about AM1073 because I wanted to put a limit on the dollar amount that the local subdivision could give away. In a consistent effort to follow through with what I pledged to you this morning, I will say they're elected to do their job. They can give it away at their peril, as Senator Price said. And at this point I believe that if a bucket truck could be donated to Metro Community College, that value would probably be above what I'm suggesting. So I will leave this to local control and to the people that we vote into office at the local levels to make sure that the value is commensurate with the effort, and I would like to withdraw AM1073. [LB628]

SENATOR LANGEMEIER: Thank you, Senator Krist. AM1073 is withdrawn. Mr. Clerk. [LB628]

CLERK: Mr. President, I have nothing further pending to the bill. [LB628]

SENATOR LANGEMEIER: Senator Harr for a motion. [LB628]

SENATOR HARR: Thank you, Mr. President. I move that LB628 be advanced to E&R for engrossing. [LB628]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB628 does advance. Mr. Clerk. [LB628]

CLERK: Senator Harr, with respect to LB524, Senator, I do have Enrollment and

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Review amendments. (ER53, Legislative Journal page 868.) [LB524]

SENATOR LANGEMEIER: Senator Harr for a motion. [LB524]

SENATOR HARR: Thank you, Mr. President. I move that LB524 be...oops. [LB524]

CLERK: E&R amendments, Senator. [LB524]

SENATOR HARR: Yes...that the E&R amendments to LB524 be adopted. [LB524]

SENATOR LANGEMEIER: You have heard the motion of the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB524]

CLERK: I have nothing further on LB524, Senator. [LB524]

SENATOR LANGEMEIER: Senator Harr for a motion. [LB524]

SENATOR HARR: Thank you, Mr. President. I move that LB524 be advanced to E&R for engrossing. [LB524]

SENATOR LANGEMEIER: You have heard the motion on the advancement. All those in favor say aye. All those opposed say nay. The ayes have it. LB524 does advance. Mr. Clerk, items for the record. [LB524]

CLERK: Mr. President, a new resolution: Senator Cook would offer LR163. Senator Coash, an amendment to LB309 to be printed; and Senator Lathrop to LB525. [LR163 LB309 LB525]

Mr. President, a priority motion: Senator McGill would move to recess the body until 2:00 p.m. this afternoon, 2:00 p.m.

SENATOR LANGEMEIER: You have heard the motion to recess until 2:00 p.m. All those in favor say aye. All those opposed say nay. The ayes have it. We stand at recess.

RECESS

SENATOR LANGEMEIER PRESIDING

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

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record.

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

SENATOR LANGEMEIER: Thank you. Mr. Clerk, do you have any items for the record?

CLERK: I do, Mr. President. Thank you. Enrollment and Review reports LB35, LB70, LB112, LB204, LB204A, LB286, LB305, LB385, LB407, LB477, and LB499 are all reported correctly engrossed. Enrollment and Review also reports LB357 and LB637A to Select File, some having Enrollment and Review amendments. (Legislative Journal pages 1188-1190.) [LB35 LB70 LB112 LB204 LB204A LB286 LB305 LB385 LB407 LB477 LB499 LB357 LB637A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on this afternoon's agenda, LB297. [LB297]

CLERK: Mr. President, LB297, the first order of business is Enrollment and Review amendments. (ER54, Legislative Journal page 871.) [LB297]

SENATOR LANGEMEIER: Thank you. Senator Dubas, would you make the motion on the E&R amendments? [LB297]

SENATOR DUBAS: All these years I've been watching and listening and I still couldn't tell you how to do it. I move the E&R... [LB297]

SENATOR LANGEMEIER: Just read the screen. [LB297]

SENATOR DUBAS: I move the E&R amendments on LB297. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Dubas. You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. Mr. Clerk. [LB297]

CLERK: Mr. President, the next amendment I have is from Senator Coash, but I have a note that he wishes to withdraw. [LB297]

SENATOR LANGEMEIER: So moved. Mr. Clerk, next motion. [LB297]

CLERK: Mr. President, the next amendment to the bill, Senator Dubas, AM843. (Legislative Journal page 910.) [LB297]

SENATOR LANGEMEIER: Senator Dubas, you are recognized to open on AM843 to LB297. [LB297]

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SENATOR DUBAS: Thank you very much, Mr. President. Good afternoon, colleagues. This amendment actually took a part of what Senator Coash's original amendment was looking to do, so I did work with him in bringing this amendment forward and thank him for working with me on that. Basically makes two changes to the existing legislation. It lowers the minimum grant amount from \$20,000 to \$10,000. Our thought is if we're going to allow these grants to be used for planning purposes, you don't need the substantial types of dollars when you're putting a plan together. So this would encompass that by lowering that amount. The second change, you know, there's been a lot of talk about the Lincoln arena, when it comes on board and the additional dollars that will be generated from the Lincoln arena coming into this Convention Center Financing Fund. And so the thought was, you know, if there's more money coming in, we could boost up those maximum grant amounts. So basically what this amendment does, first of all, it puts like a trigger mechanism in place and once the fund reaches a certain level, and I don't have that, but once that fund reaches \$2.5 million then these new grant maximum amounts would kick in. It would raise the different amounts on each of the different levels of communities that can apply for this grant. So cities of the primary class, it would increase it from \$1.5 million to \$2.25 million; a population of 40,000 to 99,999 would increase from \$750,000 to \$1,125,000; next level, \$500,000 would increase to \$750,000; and so on. And then it also puts in there that if this grant...if the fund account amount would drop below the \$1 million then we would revert back to the original maximum grant amounts that are in the statute now, again just anticipating the additional revenues that could be coming into this fund. It's not going to be happening this year or next year, it's a few years down the road, but just putting that in place that would allow these grants to be used. Since 2004, over \$3 million has been distributed across the state to help build community centers, civic centers, event centers, cultural event centers, exactly what this fund has been intended to be used for. It's to stimulate and boost our local economy, encourage the tourism, both trying to pull in tourism from outside of the state as well as tourism from outside of our region. It's proving to be a very effective program. The applications for this program are scored on a variety of basis of again attracting people from outside of the state as well as outside of the region, looking for the potential positive impacts long range on the economy, the amount of financial resources that are...local resources that will be put into the project, how ready the project is to move forward. These funds can be used for new construction as well as renovation of existing centers. It can also be used for infrastructure improvements directly related to the construction or renovation. Anything fixed in the facility can be used. It can't be used for temporary or movable fixtures. These dollars in my original bill that we advanced from General to Select, we're also going to allow the inclusion of historical buildings to qualify for these funds. We have a lot of historical buildings across the state of Nebraska who may just be sitting there with the very real potential of falling into disrepair. If communities can access needed financial resources, they can put those dollars into these historical buildings and make them very usable and, again, bolster the economy and help the aesthetic value of these

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local communities. We also, in the original bill, lowered the match requirement from 80 percent to 50 percent, again wanting to make sure that the dollars that are in this program are being fully utilized. This program is definitely picking up steam. It's got the attention of municipalities across the state. In this last grant cycle, we had I believe, oh, let's see, there were 30 communities that together requested over \$5 million in grants. Of those 30, 24 sent in final applications and in the end I believe six projects were awarded. So there is obviously strong interest in this fund. There is a lot of use. The more dollars that are in this fund, the more dollars we're going to be able to get out across the state, especially if it grows as anticipated. I think this fund has the very real potential of boosting up the economies in our communities across the state. This came in...the original fund came into place when the Qwest Center was being proposed, looking for financing for the Qwest Center. This program creates a 70 percent versus 30 percent: 70 percent of the sales tax revenues generated in a certain area around the Qwest Center go to help Omaha pay off those bonds; the remaining 30 percent goes into a fund to make these grants available for communities across the state. So it's recognizing what the Qwest Center has done for Omaha and what those same types of facilities on a much smaller scale can do for the rest of Nebraska. Again, it's a great resource and tool and I hope that I can get your support on this particular amendment and the bill. Thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Dubas. (Visitors introduced.) You have heard the opening on AM843 offered to LB297. The floor is now open for discussion. Those wishing to speak, we have Senator Cornett. You're recognized. [LB297]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. I rise in support of LB297 and the underlying amendment from Senator Dubas. The Revenue Committee over the years has heard many bills that we have rejected that have touched these funds. This bill I think does nothing but help serve the rural community and I applaud Senator Dubas' efforts with it and I urge the body to support the bill as amended by Senator Dubas' amendment. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Seeing no other lights on, Senator Dubas, you're recognized to close on AM843. Senator Dubas waives closing. The question before the body is, shall AM843 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB297]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Dubas' amendment. [LB297]

SENATOR LANGEMEIER: AM843 is adopted. Mr. Clerk for a motion. [LB297]

CLERK: Mr. President, Senator Flood would move to amend, AM882. (Legislative

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Journal page 917.) [LB297]

SENATOR LANGEMEIER: Senator Flood, you're recognized to open on AM882.
[LB297]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. This amendment has caught a lot of your attention over the last couple of hours, thanks in part to the good people of tourism across the state of Nebraska. And let me tell you why I introduced it. Not every city the size of Madison or Battle Creek or Newman Grove--and, yes, I do have those size cities in my district--or the cities the size of Norfolk have a municipally owned convention center. They might have a Zesto. They might have a Dairy Queen. They might have a community center but the church owns it. And in Norfolk, we have a community theater, which I've been...would love to use these funds for to get the community's theater restored but the city doesn't own it. And I have a hard time going...with the thought of going to the city of Norfolk and asking them to put a tourist facility or to put a community theater in city ownership. We don't need to make government bigger. And I visited with the league about using these funds for those types of programs and they feel there's a constitutional issue. They do not feel that's in the best interests of the program. This money is supposed to be for tourism. It's supposed to attract people to towns. I'm from rural Nebraska. I appreciate that and I want rural tourism to continue and I will fight for it. But at the same time, on General File I put an amendment in that identifies libraries and let me tell you why I think a library is important. A library is important because until kids sometimes reach the age of four, more often five, when they learn to read or when they get involved with books, it happens at the public library. And if they don't start reading or getting interested in reading by the time they get to kindergarten, oftentimes they're behind the curve as they go through their K-12 education. And a couple summers ago I went out to Scottsbluff and I saw in the John N. Harms Technology Center, and I know he probably doesn't like me saying that, at Western Nebraska Community College, I saw what's called a discovery lab and a discovery lab has a little area for robotics, it has an area in there for problem solving, and it has a video technology area. They can make newscasts. They can learn to write and read and solve problems and use math and use communication skills. And I asked the people at the technology center, who uses this discovery lab? And they said, well, it's not the college kids; it's the elementary kids, it's the junior high kids, it's the autistic children that can walk into a discovery lab and unlock the love of learning, that can see things fit together, gives a person that's in 3rd grade the ability to have some self-confidence about their ability to think through problem solving when they're not reading a book or sitting at a desk but they're putting things together. And I have been after folks in my district to create a smart lab or discovery lab opportunity, and I put this amendment together because I want to see the Madison Public Library and the Norfolk Public Library and these different public libraries attract kids that are two, three, four years old to start reading and solving problems and getting ahead of ourselves. We spend so much money, in fact Senator Conrad said it today, \$1.7 billion

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on K-12 state aid to education on top of the property taxes, and too often those kids show up in kindergarten and they're not ready to go. And I think that's where the city, the citizens of these towns have a responsibility to lift these kids up and let's get them inside and let's start reading, let's expect better things out of day care, not that we have bad day care in this state, but let's expect reading to happen at day care. Let's present learning opportunities. Let's use smart labs to allow an autistic child to reach inside himself or herself and discover that they have so much value and so much potential and their mind just works in a place like this. That's why I put this together. And I have been working with Senator Dubas and I appreciate how she accommodated me on General File. Where my amendment runs afoul with the interest of the Legislature is that it does not require a match, a local match, and that's because it's hard to raise money for the library. It's hard to go out in the community and raise a bunch of money for the library when you're raising money for an athletic complex, you're raising money for this or that, you name it, a YMCA, which are all very important. And, no, I don't have a match in this amendment and I know that that's something that's objectionable. What I think the value of me standing up on this introduction is, is I'm sending the message to the Department of Economic Development there are 15,000 people that hold library cards at the Norfolk Public Library and more than half of them are from outside of our community. And if there's a young man from Plainview, Nebraska, in Senator Larson's district, that wants to get into a reading club or into a smart lab opportunity that's available at the Norfolk Public Library and then go back to Plainview and share that with his or her friends, I think that's just as important as a community center available for the entire year. I think these projects are eligible and I've had that confirmed under the existing statutory language, especially with the General File amendment, so I don't have any reason to keep my amendment under consideration by the Legislature. But I guess what I do want to say is these funds have to go to a purpose that at the end of the day we look at and we say we got a lot of value out of this. I know there's a lot of value in putting a roof on a community center in a smaller community and I've not debated that with Senator Dubas because I see the value. But for those mid-size communities, for the Madisons and the Battle Creeks, libraries are just as important as a community center. They have as much value as a community center and, quite frankly, it takes us another step in the effort of early childhood education to make sure those young people are ready for kindergarten when that day comes. So I'm not going to take this to a vote and it's not because I don't want a smart lab or a discovery lab in my community. It's because I think you can already do it and it is a little unfair not to require a match. It should compete with every other project, and I respect Senator Dubas' position on that. And for that reason, I pull...I would like to withdraw AM882. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Flood. AM882 is withdrawn. Mr. Clerk, next motion. [LB297]

CLERK: Mr. President, Senator Harr would move to amend. Senator Harr, AM1081 is the first amendment I have. (Legislative Journal page 1072.) [LB297]

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SENATOR LANGEMEIER: Senator Burke Harr, you're recognized to open on AM1081. [LB297]

SENATOR HARR: Thank you, Mr. President. I'm a little leery to speak today. I got in a little trouble earlier. But that being said, I think this is...the purpose of this bill originally was to give the Qwest Center Omaha 70 percent and the rest of the state 30 percent. And you might ask yourself, well, how do you know that, Burke? Well, the way I know is because the only municipality that isn't defined is a city, a metropolitan, size of Omaha. So it's apparent that was the initial intent and what I'm trying to do here is to go back to what the original intent of this bill is. We have kind of Christmas tree this bill and whenever someone wants money, we kind of add, well, we can do this; well, we can do that with the 30 percent; we can do, well, just about anything the Legislature decides. Well, and that's fine. We as a body vote on that. Now because this is such a good bill and the Christmas tree on the 30 percent, other areas have decided to go after the 70 percent. Lincoln is currently doing it. Ralston is looking at it. I would think just about anybody would have a...who is doing any type of...this type of construction would want to look at the turnback money. Problem is, as the pool gets larger and we have more communities taking advantage of the 70 percent, the pool or those who can take advantage of the 30 percent get smaller and smaller. Now I can understand, and I agree with the original intent of the bill, if a city gets the 70 percent they shouldn't get the 30 percent. However, keeping along that same line of thought, if Lincoln can go after the 70 percent, why can't Omaha go after the 30 percent? That's consistent with the original intent--one city gets 70 percent and the remainder of the state gets 30 percent. That's what this amendment is doing. That's what some of the following amendments maybe clarify a little better. Omaha is the area I represent. We have no intention with that money right now, I'll be honest; Lincoln does. They want to do some work on the Centennial Mall and I think that's admirable and I think it would probably help the Legislature too, the area around the Legislature. My bill is merely, and this is a resounding theme of my first year, what's good for the goose is good for the gander. Let's go back to the original intent of the bill. Let's go back to what our senators originally meant when they passed this bill. Now that being said, I think I've picked enough fights today and am in enough trouble, so I'm going to go ahead and withdraw this amendment and the following two amendments, but I would ask, as we go look at further legislation, to keep in mind that our cities do need assistance and that we can't just constantly take back from the cities. So thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Harr. So AM1081 is withdrawn, AM1082 is withdrawn, and AM1143 is withdrawn. [LB297]

SENATOR HARR: That is correct. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you. Mr. Clerk, next amendment. [LB297]

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CLERK: Mr. President, Senator Avery would offer AM1197. (Legislative Journal page 1191.) [LB297]

SENATOR LANGEMEIER: Senator Avery, you are recognized to open on AM1197. [LB297]

SENATOR AVERY: Thank you, Mr. President. I'm going to say right up-front that I'm not planning to withdraw this motion so we will see how it goes. AM1197 renames and redefines the parameters of the Local Civic, Cultural, and Convention Center Financing Act, sometimes referred to as LCCC. The amendment changes the name and definition to the Civic and Community Project Funding (sic) Act. This will, of course, expand the definition of our "fundable" projects so that the pool can be enlarged. Right now, the way the law reads, it refers to facilities. Do you mind giving me a gavel, Mr. President? [LB297]

SENATOR LANGEMEIER: (Gavel) [LB297]

SENATOR AVERY: The current law refers to facilities and continually throughout the original law it refers to buildings, and generally there is the assumption that these are particular kinds of buildings, buildings that are convention center related. The turnback mechanism has already been described by a couple of senators already on the microphone and I think it's one of the most creative tools that we have in this state for doing special projects that lead to economic development and that can help with tourism and generate new revenues for our communities. We do have a special feature of the turnback provisions for the Qwest Center whereby 10 percent of the 70 percent that goes to the Qwest Center financing is earmarked to assist in areas of high concentration, particularly north and south Omaha. I believe Omaha took advantage of this 10 percent turnback recently to erect a memorial to Martin Luther King, Jr., at 24th and Lake Street. I might be wrong about that but I believe I'm correct. This mechanism is not only creative, it's been very, very helpful with the Qwest Center and it's also been helpful to Lincoln or will be. Many of you may not know this but Senator Ashford is the person to whom we owe a debt of gratitude for this turnback idea. He was advocating for this early on in the development of the Qwest Center. He paid his own way down to Little Rock, Arkansas, to study a project down there that used this particular feature. He brought that back to Omaha. I have visions of him actually in his running shorts, stepping off the 450 yards from the Qwest Center to other facilities around the area, trying to see how the thing would work and who would qualify and who would not. I did the same thing here in Lincoln. I don't know if the measurement that I had was quite as accurate as his, since he's a bit taller and has a longer stride, but we did have, both, have an interest in this. That 30 percent fund is what we're talking about today but I wanted to tell you about the origins of it. That 30 percent fund is very important because so far it's funded about \$3.8 million in projects. I believe Senator Dubas talked about

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this. Firth Community Center here in Lancaster County, the West Point Community Theater, Brownville Opera House, the Czech Cultural Center in Wilber, these are just a few of the projects that have been funded by that 30 percent fund. According to the Department of Economic Development, which would be responsible for approving the grant process and would decide on all applications, there are about \$1.7 million in the fund today. I want to expand the definition of how these funds can be used at the discretion of the Department of Economic Development for projects like city parks, community gathering places, outdoor civic beautification initiatives, youth parks, water parks, and taking it beyond just buildings and facilities of that sort. I believe this is a very, very useful instrument for economic development and I believe that expanding the definition would be helpful to a lot of communities around the state. According to the amendment, if you look at page 5, "Civic project means a public facility or development that is primarily used by the public for conventions, meetings, cultural events, and other public gatherings and libraries." I put that in there for Senator Flood, in case he is still interested in that amendment he just withdrew. "Community project means a public facility or development that is located in the traditional center of a community, typically comprised of a cohesive core of residential, civic, religious, and commercial buildings, arranged around a main street and intersecting streets." This amendment that I am offering does not do damage at all to the concept and original intent of the 30 percent fund, or the LCCC fund. It does in fact expand it, make it more available to more communities for more projects. I believe it is worthy of your attention and I would be happy to answer any questions. Thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Avery. (Visitors introduced.) You have heard the opening on AM1197 offered to LB297. The floor is now open for discussion. Those wishing to speak, we have Senator Hansen, Pirsch, Coash, Dubas, Ashford, and others. Senator Hansen, you're recognized. Senator Hansen, you're recognized. Okay, he waives his opportunity. Senator Pirsch, you're recognized. [LB297]

SENATOR PIRSCH: Thank you, members of the body. I wonder if Senator Dubas might yield for a question or two. [LB297]

SENATOR LANGEMEIER: Senator Dubas, will you yield? [LB297]

SENATOR DUBAS: Yes, I will. [LB297]

SENATOR PIRSCH: Thank you. Senator Dubas, you're the sponsor of LB297, which is the bill that would affect or change somewhat the existing order of things. Currently...so and this was...Senator Ashford has a great historical background of this and as he was working here on the...having the Qwest Center built and to have that happen, the usual structure of sales tax in that instance had to be changed to...so that the host city then would keep 70 percent of the monies to utilize to pay off the bonds for the project and then 30 percent then would go to cities in which this activity was not taking place. So

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currently, Lincoln was eligible and, of course, all communities outstate, outside of the city of Omaha. And your bill would...but the way the 30 percent could be utilized in these other places outside of Omaha was restricted to just essentially, what, city halls and cultural centers. Is that correct, Senator Dubas? [LB297]

SENATOR DUBAS: That's correct. These would have to be facilities that are owned by the municipality. [LB297]

SENATOR PIRSCH: Right. And I have railed in past years against the restricted usages of the funds, not in terms of between Omaha and other, you know, the division between Omaha and outside of Omaha, but insofar as it in my mind did not allow the greatest latitude in places outside of Omaha who are eligible to receive the funds to put those funds to best use, and I think you also concur in that. But could you tell me, with respect to though what your bill, LB297, envisions in terms of bumping out or allowing for now that didn't exist before, could you just briefly comment on that? [LB297]

SENATOR DUBAS: Briefly what the bill does would allow the inclusion of historical buildings, so if you have a building that's been deemed historical in your community that's owned by the municipality, these dollars could be used for that. It lowers the match from 80 to 50 percent and it allows the dollars to be used for planning purposes, which they weren't allowed to be used for before. [LB297]

SENATOR PIRSCH: Yeah. And I tell you, I appreciate your bill coming forward. There was a number of bills, including I had a bill, in terms of enlarging the potential uses in communities outside of Omaha. The same communities that had access to these dollars before could now use them, a greater latitude permitted. And there were other issues. Senator Coash had--I'm on the Revenue Committee--a couple of proposals that would bump it out to allow these communities outside of Omaha to use this for tourism and film and certainly I had a couple of proposals, one of which I felt, in my opinion, that the greatest latitude should be afforded the highest use of those dollars and I had a proposal that would allow essentially any usage outside the city of Omaha. And so...but we talked about, we had a very thoughtful debate in Revenue Committee and after that careful discourse there was the idea, the concept of going forward with this. And I do appreciate this. I'm glad that we're headed in the right...we all agree, headed in the right direction, I believe, of enlarging the permitted uses so that we're getting the most bang for the dollar, the most...the best and highest usage of these scarce dollars that are coming in this way. And so I do appreciate and will support this bill. [LB297]

SENATOR LANGEMEIER: One minute. [LB297]

SENATOR PIRSCH: I just hope as we go forward that as we look at the needs of the community and, of course, Senator Dubas, you come from an area that is eligible, can utilize these grants, and you have that expertise and knowledge, as do the other

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members of Revenue Committee. And so I don't think...you know, that's appropriate that you go forward with the plan you think best suited to that. I would just say, you know, as we go forward into the future, if we look, what are the actual needs that are going to attract people, the highest needs that your small communities, I'm sorry, small towns and villages need and look at this, in the future maybe revisit it, if this can be utilized and broadened in that manner. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Coash, you're recognized. [LB297]

SENATOR COASH: Thank you, Mr. President. Good afternoon, members. I find myself in an interesting position on this amendment. I'm a Lincoln senator. I want to see any resources we can find to support my community, which I believe AM1197 does, but I can't support it. Senator Pirsch mentioned that I had two bills in front of the Revenue Committee that also went after the 30 percent money. Revenue Committee killed those two. And I'm not heartbroken. I'm not bitter, maybe a little, but a couple things happened with those bills that did not happen with AM1197. First of all, those two bills had a public hearing and I got to come in and I got to make my case to the committee and folks who agreed with me also got to make their case, and the committee ultimately made their decision that my proposals did not fall within the original intent of what at the time was LB382. So what that caused me to do, colleagues, is to go back and look at the original intent of LB382, which set up both of these pots of money, and this is what I learned. The turnback is going to be split and 70 percent of that is going to be put in one pot and 30 percent is going to be in the other, and there are specific ways that the DED is expected to administer grants from those two pots. And it became very clear to me that if I wanted to do something for Lincoln's benefit, I needed to go after...or if something in Lincoln wanted the benefit of this money, they needed to access the 70 percent. And if communities outside of Lincoln and Omaha wanted to go after this money, they need to go after the 30 percent. Can we change that? Sure, we can. We've only had this in place for a few years. I think Senator Ashford is going to follow me fairly soon and he's going to give us a good history lesson on how this all came about, and I'd encourage the members to listen to that because once you understand how this came about, how we got to the place that we are, you'll understand why they killed my bills and you'll understand why AM1197 doesn't fall within that intent. With that, I'll yield the remainder of my time to Senator Cornett. [LB297]

SENATOR LANGEMEIER: Senator Cornett, 2:20. [LB297]

SENATOR CORNETT: Thank you very much, Senator Coash. I have my light on to speak on this also. There's a couple of points that I want to bring up. The original intent of the financing act was that if you received the 70 percent that you would not be part of the 30 percent. The 30 percent would be what was foregone revenue for the other communities because this is state sales tax. This is what we're giving back to the

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communities for forgoing this revenue for turnback. And Senator Avery and I have been talking in regards to his bill. On page 10, line 10, I believe that there is a serious technical flaw in the bill for Lincoln that if they apply for this then they are no longer eligible for the Sports Arena Facility Act, which they've already passed bonds for. Senator Avery and I will be having further discussions on that. With that, I thank Senator Coash and I will be speaking again in a few moments. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Cornett and Senator Coash. Senator Dubas, you're recognized. [LB297]

SENATOR DUBAS: Thank you, Mr. President. I do stand in opposition to this amendment. I haven't had a chance to go through it page by page yet to fully understand but I guess I would just like to reemphasize to the body, this is a program that is not looking for additional projects to fund. There are plenty of projects that are being submitted for funding. They're having to turn projects down for funding because there's not enough money to fund everything that's being requested. These are good, quality projects that have been applied for across the state of Nebraska. If you look at the list in the report, in the 2010 report, these over \$300 million, again, as I stated earlier, have gone out across the state of Nebraska and we've funded projects in every corner of the state. This money, there is a use for this money. And if we start to add more projects that aren't even necessarily in the scope of what this fund was created for, we're going to put these types of projects in Wilber and West Point and Dannebrog and Randolph and Atkinson, you know, all across the state. We're going to put those projects in jeopardy. These dollars are vital. When you look at most of the grant amounts, they're in the \$50,000 range. There's some that are over \$100,000, a couple that were \$300,000, but most of them are in the \$50,000, \$40,000, \$20,000 range. Doesn't sound like much money, does it? It's a lot of money for communities across the state of Nebraska. Those dollars go a long, long way in areas outside of Lincoln and Omaha. They're important. They're doing what they were intended to do. When the Qwest Center was built, they knew they needed funding to help with it. There was a recognition, and I hope Senator Ashford will speak to this later, of what it would take to help the rest of Nebraska build similar facilities to the Qwest. Now you could probably take almost every one of these facilities that...or projects that have been listed. You could fit them inside the Qwest Center more than likely. But even though they aren't large in size, they're large in impact. They provide a very, very important part to the economic driving of our rural communities. I, you know, every community, we're all in the same boat when it comes to looking for financial resources. We're struggling. Every debate we've had on the floor so far makes that point. And now it's kind of like sharks in bloody water. You know, we are just...we're having a feeding frenzy on any little pot of money that we can find to help support our particular areas of interest or what we feel need additional resources. It's unfortunate but, you know, that's the way it is. But I introduced this bill in its original form to make sure that the program would be preserved and would go on to be used for our communities across the state of Nebraska. Omaha

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has reaped the benefits of the 70 percent. I anticipate Lincoln will reap those same benefits too. And again, we're talking about dollars that we think are going to come into this fund and more than likely they will, but it's not anything that's going to happen next week or next month or even next year. So right now I think at the most we're talking \$1.5 million to maybe upwards to \$2 million that is even in the fund as it exists. So the more we allow things such as what this amendment is trying to produce, trying to achieve, the more we water down the fund and the more we make projects that are vital to the rest of Nebraska, we put those in jeopardy. I hope to have the opportunity to look through this amendment, have some further dialogue on the floor, but I really would encourage the members of the body to not support AM1197 and move LB297 forward. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Dubas. (Visitors introduced.) Continuing with discussion on AM1197, we have Senator Ashford, Loudon, Cornett, Price, Schumacher, and others. Senator Ashford, you're recognized. [LB297]

SENATOR ASHFORD: Well, first of all, I did go to Little Rock. (Laugh) I will agree to that. But...and it was hot there, I remember, and I did learn about the turnback financing. I'm sure Senator Heidemann would wish I had never gone to Little Rock. I could have...I could not have gone to Little Rock. I could have gone to some other area and...but I did go to Little Rock and it was interesting and we did bring back the turnback and it has changed. But I really...and I know, we don't need to make a long record on this, but I do...I must say that my friend David Landis and Bill Lock from the Revenue Committee really were the responsible people in creating this thing. As usual, I brought back the idea and then said I had to go play golf, and they actually made it happen. So thank you, Senator Avery, for that. I think it has been a great program and I am very proud, as I said the other day, of all the communities across the state that have accessed the 30 percent fund. And I'm proud of some of the projects in north Omaha and south Omaha that have been funded, proud maybe is the wrong word but really happy to see that that money has been used in very constructive ways and exciting ways for these towns. And I suppose it is true that at the end of serving these years I'll look back on that experience as one of the highlights, without question. But it was clearly a collaborative approach to trying to address the needs of rural communities. No, it's not a huge amount of money but it's meaningful dollars, as Senator Dubas has suggested. And I so support her idea here of being able to fund cultural and historic buildings. It's such...it is clearly within the vision. In fact, when we talked about the 30 percent fund initially, we had all that in there I think or at least parts of it and then in the end it didn't get in there. So clearly, what Senator Dubas is doing is very consistent with what we, Senator Landis and others, we were supportive of at the time as it evolved in the Legislature. And it is exciting, Senator Avery is absolutely right, and he did great work on the Lincoln, as did all the Lincoln delegation, in convincing the Legislature that the Lincoln arena not only will enhance Lincoln but it will enhance the entire state as we increase the fund in the 30 percent fund for rural communities across the state. I'm (laugh) I'm a big supporter of

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fixing up the Central Park Mall as well. I think it's a state jewel, and every time I see it, I want to fix it and I'm sure we all do. We'd like to make it nicer. And I know and I remember Senator Schimek's efforts in both working on the Central Park Mall and on the Capitol gardens and the fountain and we do need to do more work in that area, and hopefully as we go forward we can and I'm sure we will. I have some concern about the amendment at this time. Very rarely do I voice opposition to my friend Senator Avery's ideas. I think it's a great idea, but I have some concerns about it and some reluctance. But I do feel strongly about what Senator Dubas is doing and I admire what she's doing. So with that, I'm not sure I helped at all, but thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Louden, you're recognized. [LB297]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Yeah, this turnback money, I was here when some of that was discussed before. In fact, I was here when we had to rearrange it because they weren't getting enough to make it pay out on the Qwest Center. And I remember Senator Chambers had a hissy fit over it because he said he told them so, that they weren't doing it right to start with, and so then they had to come in and overhaul the thing. But that isn't what I'm looking at right now. I'm looking at this bill. And is Senator Avery around here anyplace and would answer questions? [LB297]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB297]

SENATOR LOUDEN: Oh, maybe if he's gone, maybe I should make a motion to withdraw that AM1197. Anyway, when I look at the thing, I always try to figure out what you're going to do with the bill or with the amendment. And first of all, they've made some name changes, I guess, and then he's incorporated some of the amendments that I think Senator Flood was talking about, and the original bill has 15 pages and that includes the covers on it and this thing without the covers has 14 pages. So I don't see where we've gained anything by the amount of paperwork. It looks like to me we've probably, in fact, advanced a little paperwork. And of course, I don't intend to support this bill and I guess, since Senator Avery isn't here, maybe he doesn't intend to vote for it either. Thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Cornett, you're recognized. [LB297]

SENATOR CORNETT: Thank you very much, Mr. Speaker. This is a lot more complicated than it appears on the surface. What Senator Avery is trying to do is you have two separate financing acts. You have the Convention Financing Act and you have the Sports Arena Facility, which is for smaller. This bill would allow Lincoln to access the 30 percent turnback, which it currently can, but it expands the definition of what it can

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use that for. In essence, this was a concept Senator Avery brought to the Revenue Committee last year for the upkeep and maintenance of the Centennial Mall for Lincoln. The Revenue Committee did not pass this bill out of committee because we did not agree with the expanded use of that 30 percent fund, just as Senator Coash has said earlier that we have rejected pretty much all attempts at this 30 percent. Senator Dubas' bill was limited enough in scope that we felt it met the original intent of the 30 percent turnback. I stand in opposition to this amendment because it expands the use of that 30 percent and it is a one-time...basically one-time reach for this money for a concept that we did not agree with last year. Because once they've broken ground or are receiving the 70 percent turnback, they would no longer be eligible for this money. With that, I urge the body to support the underlying bill and not the amendment. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Price, you're recognized. Not seeing Senator Price, Senator Schumacher, you're recognized. [LB297]

SENATOR SCHUMACHER: Thank you, Mr. President. It's been said that when government sees something working well it always has to fix it. I want to share with the body just a couple of instances of how this program has been working well. Both of them come to...in my district and where...towns in which I was a city attorney prior to this life. City of Humphrey raised \$900,000 for a new auditorium. This particular fund kicked in \$100,000 to help complete the financing package and now there's a very nice auditorium, a physical facility that can be seen, enjoyed, and have all kinds of events from equipment dealer shows to weddings, class reunions in Humphrey, and it's a really nice facility, much of which was donated by private funds. Likewise, in the town of Creston, when the local school was closed, they had a choice whether to work on a city building, turn the old school into a granary, or basically tear the thing down. And using these particular funds, they were able to do additional construction in the amount of about \$40,000, matched by the local folks, and instead of a granary there today there is a nice community center which houses a little bit of a museum for which the town has contributed and the town enjoys. The marvelous thing about both of these two programs was there was a minimum of paperwork and bureaucracy involved and it was a nicely administered program. So I would suggest that we not fix this program too much. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Schumacher. Senator Avery, you're recognized. [LB297]

SENATOR AVERY: Thank you, Mr. President. I think this amendment has been misunderstood. The amendment is trying to change the definition of an eligible facility. The way the language reads now in the law, it refers to buildings. We're putting language in that would broaden the definition so that eligible projects are not just buildings. You might have a park. You might have a project in North Platte, for example, to renovate Buffalo Bill Ranch. That would obviously be an attraction to tourists, as it is

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now, but there are probably projects out there that might qualify. And you would want to take this to the Department of Economic Development. They would be the deciding point, whether or not this would be funded. But the way the law reads now, if you're not building a building, whether it be a convention center, auditorium or an opera house or what have you, then you're not likely going to even qualify. You'd be disqualified right out of the starting gate. I would like to see the definition broadened. To answer the points made by Senator Cornett, it's not at all clear that Lincoln would qualify under this at all because the double-dipping language on page 4, lines 8 through 12, that language is retained. You go to page 10, lines 10 through 14, that language is retained. Both of those paragraphs refer to double-dipping; that is, double-dipping in the Convention Center Facilities Financing Fund (sic), that's often referred to as the arena fund, and the other reference on page 10 refers to double-dipping in the Sports Arena Fund. That's basically the Ralston fund. And this language is not stricken. This language is still there. It is not at all clear that Lincoln would qualify. Omaha probably wouldn't qualify at all. Ralston might now because they haven't yet begun work on their sports arena. And once they did start collecting the 70 percent under the sports arena, they would no longer qualify under the 30 percent fund. That's clear in the law and I'm not touching that. I'm changing the definition from center or from facility to projects, development projects. That's broader. It allows for communities to say, look, we don't want to build a convention center. We don't have enough population for that, but we've got a pretty decent tourist attraction here that needs some work. And maybe it's not a building or maybe it's a park, but you'd be able to qualify under this language. So I'd like for us to focus on the intent of this language or at least the clear meaning of this language and understand that the double-dipping language is still there. It's not being stricken. It's not even being proposed to be stricken. We haven't even touched that part. And I do understand that the Centennial Mall needs work and it needs help in the financing of it, but I'm not at all sure that it would qualify under this amendment, but there are many projects in your districts that would. And it seems to me that there's sufficient money being generated by this turnback authority that the money ought to be available for more than just buildings... [LB297]

SENATOR LANGEMEIER: One minute. [LB297]

SENATOR AVERY: ...because there are a lot of attractions in your communities that are not buildings that can be useful for bringing people to your community to spend money and useful for economic development, and I would urge you to take a closer look at this and consider voting yes. Thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Harms, you're recognized. [LB297]

SENATOR HARMS: Well, thank you, Mr. President, colleagues. I want to talk about a couple things. I want to talk just briefly about the amendment that Senator Flood

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withdrew. I really believe that what he was attempting to do is really important to the great state of Nebraska in the development of the library and development of smart labs and what it can do for children overall and particularly children that are autistic or children who have learning disabilities. It's a phenomenal way to bring those children and create a whole new life for them that they never had a chance to experience. The only problem with it is, and I think he also realizes, is maybe it's the wrong place. But I think somewhere along the line we need to have that discussion again and we need to find a solution to that problem, because I do believe it's extremely important for children and for library development in our great state. Now in regard to LB297, I do rise in support of LB297. I do not support Senator Avery's amendment, AM1197. I really believe that we have changed the entire intent of this bill and, to be honest with you, I've gotten a large number of phone calls from...and e-mails from people who live in my district as well as surrounding districts that I have some relationships with that have really said we oppose this. You know, as we look at where we are with the present bill, LB297, it gives us such great opportunities to develop programs and facilities in rural Nebraska. And I know that sometimes when you think about \$5,000, \$10,000, \$20,000, not a lot of money, but you know for that little rural community it may make the difference of whether they feel good about themselves, can provide the appropriate services, provide the necessary things that are needed for them. And I hope that as we go through this whole process of looking at our budget, as we start the debate in regard to our fiscal conditions, that we don't begin to take monies away from places like rural America that really do need to have our support. We already have the issue in many cases where we're losing population base and I know that there's going to be an effort, I hope, in the near future to maybe turn that whole thing around and to put a plan together that starts to prevent some of that for happening. But all these things like convention centers and the kinds of things that the bill has and the law has presently funded are truly critical and I would be in hopes that we would not remove any more of that funding to take place, just as Senator Dubas indicated, and there are a lot of opportunities here. There are a lot of applications for grants that are critical for these little rural communities and I don't want to see us lose that sight because then I think we've lost what our intent is as senators, making sure that we represent everyone the best we can. And I would ask you to not support AM1197 and support LB297. Thank you, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Dubas, you're recognized. [LB297]

SENATOR DUBAS: Thank you very much, Mr. President. I appreciate the dialogue that's been going on this afternoon. I do feel very strongly about this bill for all of the reasons that Senator Harms just stated and others have stated. These are dollars that are very important to our communities across the state of Nebraska and just as important as the Qwest Center is to Omaha and the Lincoln arena is going to be to Lincoln, you know, the Czech Cultural Center in Wilber is important to them and the

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library in Tekamah that used this money and the community center in Blue Hill. These are all very important projects that have been funded through this fund. I couldn't agree with Senator Schumacher more. If it ain't broke, don't fix it. This program is working and it's picking up steam. League of Municipalities is on board with this. They've been working to get communities aware of this program and to apply for it and use it. Our tourism groups are really pushing our communities to take advantage of this particular program. Right now there are very few funding sources available to our communities for bricks and mortar. You know, you can find grants for a lot of things but they don't usually encompass bricks and mortar. So that's another reason why this is a very valuable fund to our communities to actually be able to come up with dollars that will help them build a physical project, a building that they can then move forward with and use in their communities. They have to come up with local match. They have to put a lot of their own dollars into it. You know, this is not a free lunch, by any stretch of the imagination. I don't think there's a misunderstanding with what Senator Avery has filed. This is an attempt to get money for the Lincoln Centennial Mall. I can't disagree with the fact that that does need attention and, you know, it could do a lot of things for Lincoln, but again, we aren't looking for extra projects for this pot of money. We have plenty of projects that are vying for this. An e-mail that I received from DED talked about intense competition is the chief reason that the majority of applying communities do not receive grants. Last year we received preliminary applications from 30 communities that together, as I've stated this before but I think it's important to repeat, requested over \$5 million in grants; 24 sent in final applications; 6 of them were awarded. We awarded \$1.1 million in the last cycle. So this fund does have the potential to grow, as the Lincoln arena comes on and maybe some of the other arenas come on, but it's not there yet. And for us to start going after this pot of money for very specific projects I think undermines the intent of what this fund was created for. It jeopardizes what will be available to communities across the state. It will deplete this fund. You know, my amendment that we just adopted earlier was adopted in recognition of the fact that the fund will have the potential to grow. And down the road, when we see how much of that potential is fulfilled, you know, maybe we do come back and see what changes could be made to this. But at this point in time, today, this fund is being utilized. There are people waiting in line at the door to access this money. We don't need to be bringing special projects in that suck money out of it and put our other communities at a disadvantage for their use and for their ability to apply for this money. So I truly encourage the body not to support AM1197 and would appreciate your moving LB297, in the form that it's in, forward. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Ken Haar, you're recognized. [LB297]

SENATOR HAAR: Mr. President, members of the body, I wonder if Senator Avery would answer some questions. [LB297]

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SENATOR LANGEMEIER: Senator Avery, would you yield? [LB297]

SENATOR AVERY: Yes, I will. [LB297]

SENATOR HAAR: Senator Avery, in reading quickly through your amendment, it talks about 10 percent of funds appropriated to a city shall be equally distributed to areas with a high concentration of poverty. That seems to be another wrinkle in this. Could you talk about that? [LB297]

SENATOR AVERY: That's not my wrinkle, Senator. That's in the original bill that was passed... [LB297]

SENATOR HAAR: Okay. [LB297]

SENATOR AVERY: ...with the funding for the Qwest Center. That was language put in there only for cities of the metropolitan class. The Qwest Center does not get 70 percent turnback; it gets 60 percent. Ten percent goes to areas of high concentration of poverty for specific projects to develop in primarily north Omaha and south Omaha. [LB297]

SENATOR HAAR: Okay. Thank you very much. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Dubas, you're recognized. [LB297]

SENATOR DUBAS: Thank you very much, Mr. President. I would just go further. I know Senator Cornett laid out the historical background of this bill and Legislatures, since this original concept was passed, have been very protective of this fund and the intent of it and have been supportive of the historical perspective of why it was created the way it was. The original intent of LB382 in 1999 was to give cities across the state buildings that were as valuable to them as the Qwest Center was to Omaha, and what I'm trying to do with LB297 is to keep that intent in place to allow us the ability to use these monies the way they were intended to be used. And while I certainly understand where my colleagues have come from with the amendments that they've introduced, both Senators Harr and Flood subsequently pulled their amendments, and I am appreciative of that. And again, I understand where they're coming from and can't disagree with the concepts of what they're trying to do. But we need to keep this program intact, the way it was meant to be, used the way it was meant to be, and it's obvious that our communities are there. And so again, I would just encourage my colleagues to vote against AM1197 and support LB297. Thank you. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Dubas. There are no lights on. Senator Avery, you are...no other lights on. Senator Avery, you are recognized to close on AM1197. [LB297]

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SENATOR AVERY: Thank you, Mr. President. I've had conversations with Senator Ashford and Senator Cornett and now Senator Dubas. I realize that this is an unpopular amendment at this time and unlikely to pass. I do believe, however, that we might want to keep this amendment in mind down the road after more money is in that fund. I believe that Senator Dubas has a good argument when she says that it's not yet at a stage where we can have more competition for it. So with that in mind, Mr. President, I would withdraw this amendment. [LB297]

SENATOR LANGEMEIER: Thank you, Senator Avery. AM1197 is withdrawn. Mr. Clerk. [LB297]

CLERK: I have nothing further, Mr. President. [LB297]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Heidemann for a motion. [LB297]

SENATOR HEIDEMANN: Mr. President, I move that LB297 be advanced to E&R for engrossing. [LB297]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. It does advance. Mr. Clerk. [LB297]

CLERK: Mr. President, the next bill, LB698. If Senator Heidemann would be kind enough, I do have E&R amendments pending, Senator. (ER58, Legislative Journal page 956.) [LB698]

SENATOR LANGEMEIER: Senator Heidemann for a motion. [LB698]

SENATOR HEIDEMANN: Mr. President, I move the E&R amendments to LB698 be adopted. [LB698]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. [LB698]

CLERK: Mr. President, the next amendment I have to the bill, LB698, Senator Langemeier. But I understand you want to withdraw that, Senator. [LB698]

SENATOR LANGEMEIER: Please do. It is withdrawn. [LB698]

CLERK: Mr. President, the next amendment I have to the bill, Senator Carlson, AM1002. (Legislative Journal page 1151.) [LB698]

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SENATOR LANGEMEIER: Senator Carlson, you are recognized to open on AM1002. [LB698]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I intend to introduce AM1002 and then I'm going to talk about LB698, and it's going to sound like it's a close and it really is. It's a close on LB698. I'll then listen to any discussion, questions, and upon closing of AM1002, I intend to withdraw the amendment. The page is passing out a chart and I would ask you to take a look at that as you receive it, and then I want to read the amendment of AM1002. This inserts a new Section 1, also amending 66-1214 to require that dispensers of motor fuels that essentially do not contain alcohol content, i.e., contain less than 1 percent alcohol, shall be labeled to that effect. Additionally, the amendment would delay the operative date of the bill to January 1, 2012. Members of the Legislature, the petroleum marketers have caused an uproar in regard to LB698. And as I talk a little bit about what they've done, I'm not criticizing their lobbyist. He's doing his job. I simply disagree with him. They've said that you're being duped by ethanol. Now in regard to LB698, it comes across as though the marketers are united in their feelings about the bill. They are not. Many of the petroleum marketers support LB698, don't have problems with it. I remind you that LB698 does not mandate removal of labels. It's voluntary. If marketers want to label, they can continue to label. If they don't want to continue to label ethanol, they don't have to. LB698 is voluntary. The market, the customer will determine what the marketers do. That's the importance of it being voluntary. I believe we are being duped by the petroleum marketers, and the petroleum marketers are being duped by Big Oil. Here are some facts. The state of Nebraska provides subsidy for ethanol, but that subsidy is being phased out. The federal government, not the state of Nebraska, provides subsidies to the blenders, the marketers, to Big Oil, not to ethanol. AM1002 would require the marketers, Big Oil to label fuel that's alcohol-free, less than 1 percent alcohol. This would take care of some of your concerns about truth in labeling. Now what's the purpose of ethanol? It's an economical, inexpensive way of raising the octane levels in gasoline. Unleaded needs to be lifted from 85 octane to 87. Super unleaded, which is what most of us buy, needs to be raised from 85 to 89. Generally it's about 5 cents cheaper. That's why many of us purchase it, in addition to the fact that we know that it's ethanol. Premium has the octane from 85 to 91. Ethanol is the cleanest ingredient in gasoline. It's the cleanest burning ingredient in gasoline. It's the only ingredient in gasoline that can be used as a food supplement. Big Oil is in the business to make a profit. That's okay. That's not wrong. That's the American way. And the most economical way for them to raise the octane level is by using ethanol. It's the most economical way and the best way. Why wouldn't they do it? We believe they do, many times in 87, which we think of as unleaded without alcohol, and possibly they do it in 91, premium. It's the cleanest, cheapest way to raise octane levels. It's clean, it's profitable, and violations aren't enforced unless there's a complaint. That's why Big Oil doesn't want to specifically label fuel as alcohol-free. If they label it as alcohol-free, they're in violation. It needs to be alcohol-free. Ninety-five percent of the fuel sold in the United

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States is ethanol blended. That's good. And the federal government defines gasoline as any fuel that's 10 percent or less blended with ethanol. That's simply gasoline. That's a federal regulation. Why would they want to enforce a law that dictates less ethanol? They don't want to enforce such a law. With what we have determined about the petroleum marketers and how they are influenced by Big Oil, some of them anyway, those who oppose LB698, I think have forgotten they are Nebraskans. I think LB698 boils down to a vote for Nebraska, a vote for agriculture, versus a vote for Big Oil. We are an agricultural state. We are not a Big Oil state. Now let's talk about Big Oil for a moment. Big Oil brings foreign oil into the state. They take our Nebraska dollars. They send it to countries that don't like us, that really dislike us, and that want us to fail. They do it day after day after day. Ethanol on the other hand is agriculture. It's made from corn. Dollars are spent in Nebraska to grow corn. These dollars stay in Nebraska. They purchase seed, fertilizer, herbicide, insecticide, equipment, and they own property on which they plant the corn, and they pay property tax, sales tax, and income tax in Nebraska. Ethanol is made in Nebraska, sold in Nebraska, exported from Nebraska. The by-product is sold in Nebraska for livestock feed. Livestock is sold in Nebraska and the dollars stay in Nebraska. And livestock owners have property and they pay property tax, sales tax, and income tax in Nebraska. This is a vote for agriculture. It's a vote for Nebraska or it's a vote for Big Oil and dollars out of Nebraska. I ask you to join me in voting for Nebraska and vote for agriculture. Vote for our number one industry. Thank you, Mr. President. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Carlson, you had said you were going to withdraw that. Did you want to do it at this time or...? Okay. You have heard the opening on AM1002 offered to LB698. The floor is now open for discussion. Those wishing to speak, we have: Senator Krist, Christensen, Lautenbaugh, and others. Senator Krist, you're recognized. [LB698]

SENATOR KRIST: Thank you, Mr. President. I hate to follow patriotic speeches like that because I can't match them. But I have to tell you that I have no ill will against ethanol nor do I have any ill will against the petroleum mixers that do what they do, blenders that do what they do in the state. I'm the last person that would stand up here and say that we need more dependence on foreign oil. I spent 20 years trying to make sure that we didn't have to depend upon the geopolitical situation with foreign oil. But here are some of the facts and I want to be as genuine as I can about this. How did we get to this point? April 12 of 1985 there was a debate on this floor. Speaker Nichol, Senator Chambers was recognized: Mr. Chairman and members of the Legislature, this is a truly friendly amendment. I've talked to Senator Schmit and others who have an interest in the bill. All it does is require the labeling of fuel dispensing pumps to indicate whether they have ethanol, methanol, or a combination of other substances of any other type mixture. The response from Senator Schmit: Mr. President, members of the Legislature, Senator Chambers has a good amendment here. I agree to it. I think it might be a very beneficial amendment. In fact, because of the new idea of utilization of methanol as an

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alcohol for mixture with gasoline, there have been some problems with the use of methanol which is directly opposed to the use of ethanol. So the identification in which Senator Chambers provides in this manner should perhaps I believe will in fact remove any doubt as to whether or not the petroleum companies are using methanol or ethanol and should prevent some problems that might otherwise develop for motorists. They thought it was a good idea in 1985. Now it's not a good idea. I'm the first one who drives up to a pump and says if I have a choice, I want ethanol. I want as much ethanol as I can buy, but I also want to know when I drive up to the pump that I'm not buying ethanol, and here's why. I'm still one of those fortunate people that has an older boat. Ethanol increases BTU, increases burn. It does clean up the air measurably, but it is not good for a 1980 Mercury 80-horse engine. It doesn't work very well. Here's a letter from one of my constituents: I'm very concerned that this bill allows for gas pumps to not list ethanol as an additive. I drive a 2003 Volkswagen that has a turbine engine. I'm assuming that's not turbine jet but a turbine engine. It clearly states that the manner...in the manual that I am to use only premium gas 91 octane and specifically says no ethanol. Now I checked this out with my local Volkswagen dealer and indeed it is correct. As the president of a manufacturing company, I got a letter that says that they have to put a different kind of sight glass into a container and they had to develop it. But here is what I really want you to pay attention to. I stood up here before and said, high-grade mixed alcohols are on their way. When the gasification process puts us in the C8 blend and we get an octanol, you're going to need to know when we get to that point. So the labeling is ahead of itself. It was ahead of itself in 1985, it's ahead of itself today, and it needs to stay in place. Over 500 auto fuel supplemental type certificates, that's STCs, have been issued to standard category aircraft in Nebraska. An STC is a document issued by the Federal Aviation Administration, FAA, approving a product, aircraft, engine, or propeller, or a modification that was not part of the original list or part of the original design. The FAA prohibits aircraft with this STC from using... [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR KRIST: ...gasoline blended with alcohol, ethanol, per FAA SAIB CE-07-06. That's an FAA regulation. Over 70,000 auto fuel STCs have been issued in standard category aircraft around the United States. Primary engine of choice for the experimental light is called a ROTAX, R-O-T-A-X, which prohibits the use of ethanol/alcohol blend. I told you before I was involved with some of the testing for these alcohol-based aircraft, and I'm going to tell you: It is not the time to find out that you have ethanol in your tank when you are at 5,000 feet over somebody's cornfield. It is important we continue to label. And with all due respect to my colleagues, I think this was good in '85... [LB698]

SENATOR LANGEMEIER: Time. Time. [LB698]

SENATOR KRIST: ...and it's good in 2010. Thank you. [LB698]

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

SENATOR CHRISTENSEN: Thank you, Mr. President. First, I'm going to address the FFA deal...FAA. When you're getting fuel for an airplane, you don't pull up to a gas station. You order the fuel into the airport. When you order, you know what you're ordering. You can order straight unleaded. You can order what you want to put into that tank. When E-10 was originally labeled, it was a specialty fuel. The reason they done it, if you go back and read the original intent behind what Senator Chambers had done, was people wanted an alternative to MTBE that was contaminating your groundwater. People wanted a choice to avoid what contaminated it. Now if you want to think about it, unleaded or no-lead fuel, the true unleaded fuel now is your specialty fuel because 85 percent in December in the state of Nebraska was sold as super unleaded, 10 percent ethanol. I want you to think about without alcohol in the fuel being used, we'd be having a corn glut right now. And I'm sure you could go to any implement dealer and when we had \$2 corn, they did not sell as many implements as they do today when we have \$7 corn. I'm sure you can see the tax revenue to the state that you wouldn't have if it wasn't for the ethanol industry. The tax dollars is buying us out of this recession in the state of Nebraska. I read an article. I handed out a couple of sheets, one from Bosselman Energy saying: We are in support of LB698 and eliminating the requirements of mandating labeling. This requirement is obsolete for many reasons and should be removed. Rick Landenberger. I'll go back and people say alcohol wasn't developed for vehicles. It was...it's not an urban legend or old wives' tale that Henry Ford designed the first Model T to run on alcohol. It is a known and well-documented fact that he envisioned a renewable, domestic fuel that, among other things, he believed burned cleaner. That vision gave way to the realities of cheap, plentiful petroleum, and 100 years and more than 100 million automobiles later little has changed. Reliance on petroleum may quite possibly pose a significant health risk that just may now...beginning to fully grasp, but one that we have the ability to address. A little later, next page in here: Aromatic hydrocarbons in gasoline include benzene, toluene, and xylene. Benzene is known a carcinogen, one of the worst air toxins. Eighty-five percent of all benzene is in the air we breathe comes from motor vehicle exhaust. Xylene from automobile exhaust in the morning rush hour forms ozone or smog in sunlight to choke out our lungs by afternoon trip home. Toluene, another aromatic using forms of benzene during the combustion process and, thus, becomes carcinogenic along with benzene in gasoline. And if you don't put alcohol into there, what do they use to enhance the octane to get it up to where you need for your car? These carcinogenic... [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR CHRISTENSEN: ...items. So what do you want to do? Do you want to be green? Do you want to support ethanol--homegrown business? Or do you want to

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support Big Oil, support hazards to your health? You know, there's benefits to the cost of clean, green air--clean, green--Clean Air Act. From '90 to 2020--shows the benefits--avoiding early death. You look at other states. Colorado: You cannot buy true no-lead in the winter, only in the summer, because of smog; they want to clean up the air. Alcohol helps sustain that. You know, this is not anything...the feds rely on 10 percent to be regular gasoline; there's nothing hidden. Fourteen states now require no labeling. Do all these people in them states drive to Nebraska or another state to get their fuel? They have the same small engines, the same old cars, like... [LB698]

SENATOR LANGEMEIER: Time. [LB698]

SENATOR CHRISTENSEN: ...the Model T. Thank you. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Senator Lautenbaugh, you're recognized. [LB698]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I rise reluctantly but, I think, necessarily. Usually, my friend Senator Carlson and I are on the same page on most things, it seems. I don't know if he's--if that's upsetting to him that I would say that, but it seems to be true. But I just--I can't go along with this. I feel like next time someone says something is a solution in search of a problem, we'll need to hearken back to this bill and use it as the archetype, because I don't see where voting against this is in any way voting against ethanol. I'm not going to stand here and get into a discussion of the merits of ethanol yet, but I am opposed to this bill. And I'll be honest--and I said this on General File--my opposition was not whipped up or created by the petroleum marketers. I asked a group of just regular citizens at a meeting the night before we debated this on General File: What do you think of taking the ethanol label off the pump? And there was one gentleman there who worked for an ethanol manufacturer, and he said: No, I want it there, because we want to promote ethanol. And there's another gentleman who hates ethanol with a burning passion--which is probably dangerous if you're around ethanol--and he said: No, I hate ethanol, but I want to know what I'm buying; I want the label on the pump. And everyone, to a man, to a woman, everyone in that meeting, regardless of their feelings on ethanol, agreed: We want to know what we're buying. And we have a system in place where people know that. And it does not seem to be hurting the marketing of ethanol or the market penetration of ethanol in any way; our current system does not. That was terrible sentence structure, so I'll take another pass at it. Our current regulatory structure does not seem to be hurting the market penetration of ethanol in any way. I would say it's been wildly successful. And so I'm in the spot of having to defer to the people I've discussed this with. Just random people at the gas station I'll mention it to; that probably creeps people out, because they have no idea who I am or why I'm asking. But I ask. And they've read about it in the paper, and they know what I'm talking about. They say, well, yeah, why would we not label the pump? Or why would we undo what we do now?

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And I can't find a compelling reason to do this. And I'll warrant to you that we're going to be discussing this for a while. I do have an amendment that will follow this amendment, and I hear there are other amendments, too, that I haven't seen yet. And at some point I may very well just do a bracket motion to figure out where we are on this. But I'm serious when I say I am opposed to this. And I will fight this. I don't see the point in doing this, I honestly don't. I'll yield whatever time I have left to Senator Carlson, however. [LB698]

SENATOR LANGEMEIER: Senator Carlson, 1 minute 50 seconds. [LB698]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Lautenbaugh. Again, why do we have this? The ethanol people asked for it. And I don't think it's an unreasonable request. Now, Senator Lautenbaugh talked about the system we have right now--it is working fine. The truth of the matter is, as people go into stations and buy gas today and they buy an 87 or 91 octane, they don't know what they're getting. They buy ethanol, they do know what they're getting. And I don't think they want to label a pump as being alcohol-free, because I don't think it's alcohol-free. [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR CARLSON: And therefore, if we force them to label something that's alcohol-free, I don't think they like that. For whatever reason, the ethanol people don't like it. But I still think it's a reasonable request that we have in LB698. And this is Nebraska. Now, I understand that our tax revenues for the month of March, the month in which agricultural people have their tax returns due, is up 11 percent. Well, it's not up 11 percent because of Big Oil. It's up because of agriculture. And I still ask you to vote for agriculture. Thank you. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Carlson and Senator Lautenbaugh. Senator Karpisek, you're recognized. [LB698]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I didn't think I would be up quite so soon. I stand in opposition of this bill also, not because I don't like ethanol; I do. But I will go back to the part about labeling, truth in labeling, those sort of things. Senator Carlson said that it's an inexpensive way to do--to make gas. I don't want to get into all the things that we subsidize and how much we subsidize it, because I do support ethanol. I don't know if it's inexpensive. I will not say that it's hurting our food chain supply, because the distillers grain is fed to cattle; I don't think that that plays any part of anything. But Senator Carlson is very good on the mike; he's very thoughtful, and he's been a great friend and mentor here. But when he talks about a vote for Big Oil, against a vote for Nebraska, I don't think so. I'm not voting for Big Oil by voting against this bill. It sounds like, Senator Christensen talking, like we're trying to ban ethanol. We're not trying to ban ethanol here. We're just trying to say let the people who

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want to buy it, buy it; those that don't, don't. It's 80 to 85 percent. Would Senator Christensen yield, please? [LB698]

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

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR KARPISEK: Thank you, Senator Christensen. I'm not going to try to get into a real wrestling match with you on this one, but you talk about all the different things that are in gasoline right now and not labeled, correct? [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR KARPISEK: Okay. In a gallon of regular gasoline and a gallon of E-10, what's different between the two? [LB698]

SENATOR CHRISTENSEN: They take...basically, they've taken out the octane enhancers, like the toluene, the benzene, the worst carcinogenic ones that I mentioned on the floor. That's what is left out, and they put in the alcohol; that's why it's a safer, better fuel. [LB698]

SENATOR KARPISEK: They take that out of the...very good. That I didn't... [LB698]

SENATOR CHRISTENSEN: They can, but they don't have to; there is a variety of different blends--I don't want to misrepresent this. But that's typically--they don't have to add that to get the octane up. So that's why the alcohol takes care... [LB698]

SENATOR KARPISEK: Okay, very good. I'm glad I asked; I did not know that. Thank you, Senator Christensen. And thank you for ruining some of my thunder. I'm still not going to change my mind. It does go back to a truth-in-labeling issue, to me. We have gotten numerous, numerous e-mails on this issue. We get into the small engines, the airplanes, the boat motors, all those things. And I don't know that it is bad for those--the rubber hoses--if it's bad or not. I don't know. But I have said on the floor quite a few times this year that perception is reality. And people feel like this is shoving something down their throat that they don't want. I've talked to people who aren't buying ethanol until this bill is cleared one way or another. Then they're either going to have to buy it, or they won't if we kill this bill. So I don't--I just really feel that this isn't a good bill for the ethanol producers. I don't...it makes them seem like they're wanting more; 85 percent of the market isn't enough. I think it is plenty, and I think, again, I said on General File we need to be more proactive in advertising... [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

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SENATOR KARPISEK: ...blender pumps, tell why ethanol is good. And I will say that ethanol is a good thing. I'm all for E-15. But I'm not for removing these labels. I don't want to see it happen. I think people want to know. I will be up on the mike again and will talk about food processing and things that are in there. I don't really want to go four hours on this thing, but I think I will go along with Senator Lautenbaugh and talk about a bracket motion later. Thank you, Mr. President. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Hansen, you're recognized, followed by Senator Dubas. [LB698]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. My last name is spelled H-a-n-s-e-n; that's for the tombstone this weekend, if I go home, after making a few remarks about the corn business. I am certainly not in favor of Big Oil. Senator Carlson has that wrong about me anyway and I think--I think for the majority of the people in here. We haven't been lobbied by Big Oil; at least I haven't gotten any low-priced gas. But I have done a little bit of research on the interstate portion that I drive from North Platte to Lincoln. There's a Love's; there's a Flying J in North Platte. They're very competitive in their gas sales; they sell a lot of automobile gas. We...coming down here, I was on the east side of North Platte, so I filled up at Love's. And their regular octane level was 87--and they call that regular. It was 10 cents less than regular-plus at 89. So I filled up with that and found out later that it was all--it had ethanol in it, but I don't know how much, I really don't. Love's in Aurora--I stopped there; I just drove through because I didn't need gas. But I just drove through the pumps. Regular-plus was 10 cents a gallon less than regular with an octane level of 87. Petro in York, another one I drove through--instead of spending money in Senator Adams' town, I just drove through the Petro. And I did look at the regular...the regular, the regular-plus, and the premium all had E-10 in it--or they were all labeled that they had ethanol in them, but I don't know what percent. Without a label, I don't know--I mean, I'm in the dark too. When Senator Krist was talking about the FAA and experimental airplanes and if they do require regular gas as compared to ethanol--the outcome of a FAA accident from gas usually ends in "boom." This is not good. Senator Carlson, the map that was passed out--I'm not sure who passed this out--but Tom Carlson passed this out where 80 percent of the gas sold in the state of Nebraska has ethanol in it. Well, that's great. E-85...I have flex fuel; I always buy E-10. I have not gone to the E-85 yet but probably will here when I get the pickup broke in. But 95 percent of gasoline sold in the United States, according to Senator Carlson, has ethanol in it. So let's talk about those 5 percent; that's not Big Oil, either. It's 5 percent of the people have...I think probably 5 percent of the people in my district, almost, have contacted me about this situation. I had a town hall meeting a week ago last Saturday; it was brought up. I didn't bring it up; they brought it up, and they said: We want to know what we're getting. They would like to know the pumps that have ethanol in them, and they would certainly like to know the pumps that has regular fuel in it. North Platte is not a huge town in the hot rod, antique car business, but there's enough of them that really,

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definitely, truly believe that they need regular gas in their older cars, in their older lawn mowers and their older tractors, and anything else that they have burned regular gas in for years. If you go to--in North Platte if you go to Love's and put regular gas in a five-gallon can, take that home, you're not buying regular gas. The problem may be that we need that label on the regular gas rather than on the ethanol gas... [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR HANSEN: ...since 95--thank you--since 95 percent of the gas sold in the United States is--has ethanol in it now. Before my time is up here, I would like to remind people of an old adage. And there are businesspeople in here that live and die by this rule. And rule number one to a lot of businesses is the customer is always right. These are customers of corn farmers. They may not be directly; they may not be putting that corn kernel in that car, but they're putting corn in that car. Rule number two: If the customer is ever wrong, reread rule number one. We have to pay attention to our customers. And in agriculture, we don't do a real good job of that. In the beef industry, we have to pay attention to our customer, because the customer--it's a customer-driven business. Even out on the ranch, when we... [LB698]

SENATOR LANGEMEIER: Time. [LB698]

SENATOR HANSEN: ...buy...thank you. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Speaker Flood for announcement. [LB698]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members, in our warm Chamber today. It looks like we're settling in to a little ethanol filibuster. And I'm planning on a 5:30 adjournment today, unless we...unless this bill moves. One way or the other, we'll quit at 5:30, and then we'll be taking it back up tomorrow morning at 9:00. Thank you, Mr. President. [LB698]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk for announcement. [LB698]

CLERK: Mr. President, LB156, LB337, LB431, LB512, and LB558 are reported correctly engrossed. I have an explanation of vote from Senator McGill (re LB543, LB100, LB329, LB20, LB465, and LB468). And Senator Christensen would like to print an amendment to LB535, Senator Mello to LB54. Thank you, Mr. President. (Legislative Journal pages 1191-1194.) [LB156 LB337 LB431 LB512 LB558 LB543 LB100 LB329 LB20 LB465 LB468 LB535 LB54]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return now to discussion on

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AM1002. Those wishing to speak, we have Senator Dubas, Bloomfield, Sullivan, Christensen, Lautenbaugh, Brasch, Karpisek, Price, and others. Senator Dubas, you're recognized. [LB698]

SENATOR DUBAS: Thank you very much, Mr. President, colleagues. I, too, have many of the concerns that have been expressed through e-mails and on the floor here. But I am also an avid, avid supporter of ethanol and want to be on the record for that. I think when we're talking about this bill, we're talking, like, if this bill passes, all of a sudden everyone is going to run out and rip all the labels off their pumps. I've been doing a little bit of an informal poll, had some help with some other people, talking to retailers about: Will you take the labels off your pumps? And so far, what I'm hearing is, no. They know that many of their customers come in specifically looking for ethanol. So I'm not sure that we'll see a lot of changes whether this bill passes or doesn't pass. I know there was an editorial in the Lincoln paper where Whitehead Oil talked about providing their customers what they want, in terms of transparent fuel. I don't think if this bill passes that's going to change what he or any of the other retailers are going to be required to do. If he wants to continue to put labels on his pumps, why, I think that he has every right to continue doing that. And I know I will make certain that I'll be conversing with the retailers that I buy my gas from to make sure that they are putting labels on the pumps. I know the Ethanol Board is going to ramp up their efforts in providing these labels to retailers--and the Weights and Measures department as they go out, you know, to make sure that those labels are made available to the retailers. So I think we take every opportunity to educate the public about what ethanol does--the good things it does for our state and for our state's economy. Would Senator Carlson yield to some questions, please? [LB698]

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

SENATOR CARLSON: Yes, I will. [LB698]

SENATOR DUBAS: Thank you, Senator Carlson. I'm sure you've been receiving all of the exact same e-mails that all the rest of us have been receiving about, you know, this bill being deceptive and dishonest and underhanded and a few other adjectives that maybe I won't use on the mike here this afternoon. And I know we...you are a huge supporter of ethanol, and we have worked as an industry to promote the ethanol industry. What's your response when you're hearing these kinds of comments from the general public? [LB698]

SENATOR CARLSON: Well, I think I know where the opposition came from in the first place. It was what was put out by petroleum marketers trying to get people to call their senator. And so they were successful. Now, I understand, and the petroleum marketer lobbyist hasn't called me out, he doesn't like this amendment that would make them label "alcohol-free." I understand that. If they have to label something alcohol-free and

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it's not alcohol-free, they're in violation. And so I understand why they don't like the amendment. Do you want me to go on or...? [LB698]

SENATOR DUBAS: Go ahead. [LB698]

SENATOR CARLSON: I think that the...and the insinuation by any of us in this body that, well, I don't think this is good for ethanol so I'm not going to vote for it; I don't think it's good for ethanol. Who am I to say what's good for ethanol? The ethanol people have asked for it. I think it's a reasonable request. And, hopefully, we'll end up voting on it; we either vote for it or we vote against it. But I still contend it's a vote for agriculture or it's a vote for Big Oil. Thank you. [LB698]

SENATOR DUBAS: Thank you, Senator Carlson. And I guess I would like to reemphasize the fact that, whether this bill advances or whether it doesn't advance, the retailers still have every ability and opportunity to continue to label their pumps the way they are doing it right now. And if that's what their customers are asking for, if their customers are asking for truth in advertising, I don't think the passage of this bill should change that in any way, shape, or form. Thank you, Mr. President. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Bloomfield, you are recognized. [LB698]

SENATOR BLOOMFIELD: Thank you, Mr. President, members of the body. I opposed this bill out of committee; I opposed this bill before committee. I opposed this bill before I was lobbied by so-called Big Oil; I opposed this bill when I was lobbied by ethanol. This bill, to me--and I use ethanol every opportunity I get--is a fact of hiding a product that we make in Nebraska. I guess I have never been accused of being a shill for Big Oil; but if that's what I am, then so be it. I do not hate Big Oil; we've used them a long time. If we could get to straight ethanol, I would burn it. We're not there yet. I think we need to let people know what they are buying when they are buying it. I put out a little flier: Let us not hide the light of ethanol under the proverbial bushel in hopes of selling an extra gallon. This is a marketing tool; that's all it is. The ethanol people came to us and said they could sell maybe another extra 5 percent with this bill. To me, selling an extra 5 percent is not worth hiding from the people of Nebraska what they are purchasing. And I would yield the rest of my time to Senator Price, if he would like it. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Bloomfield. Senator Sullivan, you are recognized. Oh, excuse me...yield the time to Senator Price, 3 minutes. [LB698]

SENATOR PRICE: Thank you, Mr. President. And thank you, Senator Bloomfield. Wow, I was paying attention on that one. You know, I'm listening to the debate here today as we talk about ethanol and all the cures it has for us and what it does well for us. And we've seen, you know, bad actors or bogeymen identified. And we've seen that which is

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great and holy, like a grail practically. But one of the things I like to do sometimes, I like to take policy and lay it over other areas--similar areas, mind you--to see, does that play out? Does it ring true and is it consistent? So let's take this discussion of ethanol and gasoline and labels, and let's move that over to diesel. Let's talk about biodiesel, a growing market. Should we just call it all diesel now? Would that make any difference to any of your vehicles? Would it make any difference to the people who are trying to play in the biodiesel market? I would submit that it's not consistent nor congruent. What we're trying to do, it seems, in this bill is we're trying to carve out an economic advantage that doesn't apply to another area. So I guess in a few years we'll have the discussion that we won't have labels at pumps for biodiesel versus diesel--diesel one and two. So I would ask that the body consider this as they reflect on the arguments and make sure that, as we go forward, play this out a little further in your mind and understand what we're really saying here is we're trying to help an industry gain market share. It's pretty simple; that's all it really is, to me. And that's why we should keep it and perhaps not get too caught up in trying to dress up the subject matter with words that will inflict... [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR PRICE: ...thank you, Mr. President...that will inflict and will cause or colorize, if you would, the arguments before us today. So with that, I want the body to understand that I do oppose the bill. Thank you, Senator Bloomfield, for the time. Thank you, Mr. President. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Price and Senator Bloomfield. Now, Senator Sullivan, you're recognized. [LB698]

SENATOR SULLIVAN: Thank you, Mr. President. And good afternoon, colleagues. I will say at the onset that I was a supporter of LB698 on General File. I am a strong supporter of ethanol. That's the label that I look for when I go into a gas station in Cedar; I only have one station to go into. When I'm here in Lincoln, I'm usually in enough of a hurry that I just drive into the station; I don't look at the price; I don't look where I'm going; I just look for that ethanol label, fill up and go on about my business. So the support of ethanol was what drove me first of all to support LB698. But I have to say, in the back of my mind I was a little concerned about removing, potentially, a consumer's right to be informed and a consumer's choice. And I also respect the messages that I get from my constituents, not the lobbyists, not a lot of people from all across the state but the people that I hear from in my district. And so I take to heart some of their comments: for example, one who said that "I currently select ethanol-blended fuel for my newer vehicles," and he feels a great sense of pride supporting Nebraska farmers. He wants to continue to do that, and he feels strongly that he'll be able to do that more effectively if he knows he's buying ethanol. On the flip side of that, he's also an owner of an older restored vehicle. And again, he wants that

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opportunity to know what he is buying and wants it to be labeled accordingly. You know, it occurs to me that in this conversation and debate and all the e-mails that we're receiving could potentially backfire on the supporters for ethanol, in that it'll make some consumers irritated enough that they'll say, well, I'm not going to buy ethanol anymore. I hope that doesn't happen. And I will take issue just a little bit with the--when we had--when there was the discussion early on about fuel for planes. I'm not--I don't fly planes; I don't know anything about it. But again, I did hear from a constituent in my district who is a pilot and doesn't buy aviation fuel in the large quantities and oftentimes has to resort to buying fuel at the pump in a small town. And he maintains that he needs to know that he's not buying ethanol-blended fuel. So at the end of the day, I come back to feeling a little bit concerned about LB698 and fall on the side of I am a...I continue to be an ethanol supporter, but we have to give credence to a consumer's right to be informed and a consumer's right to choose. Thank you. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. Senator Christensen, you're recognized. [LB698]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, this...one thing you're not looking at here is the free enterprise system. If people want E-10 labeled, it will be labeled. The labels will still be available by the industry; they've said they'll make them available. And believe me, the station is going to label it if people want it labeled. That's not an issue. It will occur that way. And people aren't going to rip them off; they're going to leave them on there, and they're going to go forth. And so I think there's overexaggeration here that this is just finally going to be a--anything hidden to it. Because, believe me, I have fuel delivered to my farm. I tell them what I want; they deliver what I want. If I want E-10, they deliver it; if I want unleaded, they deliver it. If I want diesel with alcohol, I get it; if I want it with soybean oil, I get it. I can get it any way I want it. And it still will be done that way. And you'll have stations labeling these pumps, because they'll think it'll give them an advantage over their competition. But--and if you come back and look at...I can tell you what's pushing this: there's a federal mandate pushing every state to use more alcohol-enhanced fuels. I could take--have this copied and sent around to you; it's the RFS mandated biofuels volume that is being mandated. We have to get to 14 billion gallons in 2011 or the start of '12. We're at 13. And the following year it goes to 15, then to 16. We will have to go to all E-10. I'm sorry, it's a fact. We are moving there. It's going to happen. It's a natural-grown process. You go back and look in the back of that one chart we handed out earlier, with the different states, and just look what's happened. It's had great growth. You're right. The people that said ethanol industry don't need the boost because it's growing well, you're correct. Just from January 1, we were at 73 in 2010, almost 74 percent. We went to 85 percent by December. Why? People are choosing it. It's being mandated by the federal government. It is the safest fuel out there, especially for the environment, the air you breathe. You know, we're being forced there, and we can move that direction if we want. We're going to get there, you know. You look at who's fighting this--the distributors. If

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you look at the federal distributors--I can pull the paperwork and show you; they say E-10 is regular fuel and should be supported. But for some reason this state has chose to fight it. I don't know why. They haven't given me answer. I've talked to them several times: what would make them support? They just don't want any change. They want to go on status quo; that's all it amounts to--status quo. That's simple; that's easy; that's human nature--nobody likes change. But the overreaction is that the labels will fall off the pumps. They don't have to go off; it's consumer driven. You know what, if the distributors continue to bring the E-10 labels, I'll bet the stations put them on. [LB698]

SENATOR LANGEMEIER: One minute. [LB698]

SENATOR CHRISTENSEN: They're not forcing them off; it's just releasing the mandated that it has to be labeled. And just go out there; it is not going to...it's the safest fuel; it's what we should be using. In fact, if you go use 24 percent or 30 percent, you'll see a increase in mileage over the base unleaded. It's just a fact; I've tested it several times myself. It is what we need to do; it's better for our environment; it's healthier for us. And this is, again, not a mandate to remove it. It's just an option to remove it, and it'll let the free enterprise system decide what is the best direction to go. I can't believe this body does not want to do what the public wants. The public will mandate to the people what they want. If they want... [LB698]

SENATOR LANGEMEIER: Time. [LB698]

SENATOR CHRISTENSEN: ...it labeled, it'll be labeled. Thank you. [LB698]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Senator Lautenbaugh, you're recognized. [LB698]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. That was an inopportune time to pop up, when we're talking about doing what the public wants. My public has been overwhelmingly, resoundingly, and particularly clear about what they want. And they don't want me to support this bill. They want to know what they know now, and they're perfectly content choosing. For whatever motive, whatever their background motive is--underlying motivation would be, they want to choose ethanol, or they want to not choose ethanol. And we've heard things that I'm not qualified to judge, as far as...I didn't mean to surprise you, Senator Cook, but it's true. Does this affect small engines--with ethanol? We've heard unequivocally, no, it doesn't. I hear from people who actually have boats: yes, it does, older boat engines especially. Now, this isn't a knock at ethanol; so you can say I'm knocking older boat engines, if you want to. But the people who are buying the gasoline have a right to know, and they want to know. And we're--I believe Senator Christensen just said it's going this way anyway. Pretty soon you won't be able to get anything that isn't E-10; everything is going to be E-10. Well, all right, then. If the federal government is forcing that on us,

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then it'll happen, maybe middle of next year, I'm told, some other time, I don't know. I don't know the specifics of that. What I do know is that it bothers me that somehow it falls to us to force this on our consumers now. And we can say, well, they'll probably continue to label their pumps if the market demands. But what if they don't? What if they don't continue to label their pumps? What if they mess up and don't label one of them and someone buys E-10 or buys ethanol, excuse me, and then there's a claim of some sort of damage? This will be a thrill for all of you, but one of the amendments I have coming is a immunity from liability for people who sell ethanol. So if you enjoyed that debate a few weeks ago--and I'm confident you all did--we'll get to do it again, where we talk about, you know, if there really is the possibility of damage here, who should be liable if we aren't mandating that pumps with ethanol in them be labeled anymore. I'm not willing to say that the stickers will still be mailed out, they'll still be applied. If life will pretty much go on as it had then why are we messing with life, I guess is my question here. What does this bill get us that we don't already have? We have overwhelming ethanol penetration into the market. We have an informed--to the extent they seem to want to be--an informed public on which pumps have ethanol and which ones don't. And it seems to work. I mean, we can have discussions about what's in the gasoline that isn't in gasoline that has alcohol added. I am not qualified to stand here and say: And this is more dangerous, and this is less dangerous. And I'm not going to stand here and knock ethanol and talk about possible issues with that. But what I am saying is I don't see the need for us to act. I don't see the need for us to pursue this bill. I don't like where it's taking us. And, you know, if we're talking about what the public wants, again, I think they've been overwhelmingly clear. And I think there are some other amendments that are coming as well. And, you know, I don't remember who it was who said we preach danger and we peddle salvation. I may offer a motion for you after advising you that we're heading down the road of a filibuster. I may offer a motion soon that will set you all free on this stuffy afternoon if you vote green, not that that should motivate you one way or another, but I'll take what I can get. But I am serious in my opposition to this. [LB698]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB698]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I'll yield the balance of my time to Senator Carlson. [LB698]

SENATOR COASH: Senator Carlson, 52 seconds. [LB698]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Lautenbaugh. Again, LB698 is voluntary. It is not forced on consumers. And we can discuss this forever. I don't think it's an unreasonable request. I think that ethanol is a very, very, very important part of our economy in Nebraska. And so I would hope that we finish our

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discussion, we vote on the amendment, and we vote on the bill. Thank you, Mr. President. [LB698]

SENATOR COASH: Thank you, Senator Carlson. Senator Brasch, you are recognized. [LB698]

SENATOR BRASCH: Thank you, Speaker. Thank you, body. I also did a query, a survey among our district before this bill came out the first time to the floor here. And the constituents there said it would be okay to not have ethanol labeled, to change the marketing, to change the advertising. We've been advertising it the same way for 30 years now. There's an old saying that says: If you advertise the same way, you get the same results. We talk about trying to grow our economy and not raise taxes--hopefully, not raise taxes. However, we're not changing the marketing. We're doing things the same way, and we will get the same results. This morning at the natural resources breakfast, Senator Ben Nelson's office, Dale Jensen was invited to speak and so was Senator Johanns' office. And I believe it was Dale Jensen that stood up and talked about other--some issues, and he mentioned Wyoming, having our people from Nebraska drive over to Wyoming to find out why we are losing our revenues to them. A couple things: their taxes were lower; the other is they do not label ethanol...and said that everyone has been driving ethanol for years there without problems. I am very curious from Senator Carlson's comment about perhaps everything should be labeled "alcohol-free" if it truly is alcohol-free. That is a very good question. I would like to allow my remaining time to Senator Christensen. [LB698]

SENATOR COASH: Senator Christensen, 2 minutes 45 seconds. [LB698]

SENATOR CHRISTENSEN: Thank you, Senator, for that. You know, we're reacting all the time to the public e-mails that are sent out, you know, and this...let's just face facts: the e-mails we're addressing right now is done by the Nebraska distributors that sent out--first it was a picture of the pumps covering up the--not only the E-10 stickers but it covered up the octane rating stickers, which at that point in time, you're right, you wouldn't know what you're getting. But by octane you probably will know what you're getting. I'm sure they could arrange it so I wouldn't. I'm not saying that. But we sort through overreactions from different groups all the time. And, you know, we probably could have sent out an e-mail campaign trying to get you lambasted with supporting this. But I didn't choose to do that. And...because I believe you can see through what's going on. Because as I said, I've seen e-mails that's went out from the distributors; they are causing this reaction, and we got to sort through what is right, what we want to do, and where we want to go. And you'll have to vote accordingly, to what you believe is right. That's what we're elected to do. And I can tell you, I--it was said, well, why are we even doing this? Because there are people that believe the label "E-10" must mean it's bad. That's why if this amendment gets puts on, AM1002,... [LB698]

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SENATOR COASH: One minute. [LB698]

SENATOR CHRISTENSEN: ...Senator Carlson said he's going to let it go to a vote, because Senator Hansen was bringing it back. We might as well save the extra debate, vote on it, see what happens. To me, I say it would help the industry. They may not all agree with me. I know some of them don't. But at the same time, it'd be ironic, because now you're going to be able to flip that thought that E-10 is bad to "no alcohol" perception is bad. And, to me, that would be a good thing. But as I said, not all the industry agrees with me; they are split on that idea. But again, we will see what you guys do with this amendment; we'll see what you do with the bill and go from there. Thank you, Mr. President. [LB698]

SENATOR COASH: Thank you, Senator Christensen. Mr. Clerk. [LB698]

CLERK: Mr. President, I have a priority motion. Senator Lautenbaugh would move to bracket LB698 until June 8 of 2011. [LB698]

SENATOR COASH: Senator Lautenbaugh, you are recognized to open on your bracket motion. [LB698]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I think this is the perfect time to bring this motion, if for no other reason than to see where we are. And I don't bring it lightly, but I think I intimated I was going to do this, and so then I did it. And we were just talking about bringing this to a vote to see what we have here. And I do rise, again, seriously, to bring this motion, and I hope to see it through--I will see it through to a vote. I don't understand, again, why we are talking about doing what we're doing in a system that will apparently be supplanted in a year's time anyway, we're being told, one way or another. Why would we put any burden on anyone right now to make any changes? And why would we ignore the will of the public? And again, I want to be clear, and I don't want to be disagreeable, but the mailing--the e-mails I get do not appear to be generated by any sort of interest group or lobbyist. The ones I'm getting reference articles in the paper about this thing or things that people saw in the news. This isn't some sort of Astroturf public outcry. This is people who really, actually, happily are following what we're doing and don't want us to do this particular thing. And that's not bad; that's kind of refreshing to get that kind of feedback. We've all seen the, you know, the e-mails that come, and it's the same verbiage and it says, you know, we trust you to protect whatever. And then you read down to the fourth paragraph and it says in parentheses, "Please insert personal message here." And, you know, those aren't terribly effective. If you're watching and listening, those aren't terribly effective; at least read your whole e-mail before you send it--just an idea. That said, the ones I'm getting are not uniform. They are from people who, again, have just seen coverage of this in the media and have said, we don't want you to do this. And I don't see any justification for turning our backs on them. And I know I'm not alone. I know I'm not

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alone in the e-mails I'm getting. People who may have supported this bill previously are saying: Yeah, but my e-mails, my gosh, they're horribly against it; it's not even close. I honestly think I've so far gotten one e-mail in support of this bill, and it is from a gentleman who has an interest in an ethanol-producing entity and may or may not be lobbying for them. That's not a groundswell of support for this bill. And I don't sit there and just wave the e-mails and say, okay, I got more e-mails this way than the other way, so this is what I'm going to do. But again, this isn't even a close call. And it mirrors what I see when I--or what I hear when I actually speak to people about this and say: Do you want us to make this change? The answer is no, clearly no, unbelievably clearly no. And here we are talking about it. So I do bring the bracket motion, because it'll come to a vote pretty soon here, hopefully, and we'll see where we are and if we are really inclined to talk about this all morning tomorrow, too, and figure out how serious we are about this. So I would urge you to vote green for the bracket motion, save us from, while good intentioned, a bill that I don't think accomplishes anything that needs accomplishing and messes with a system that doesn't need fixing. I meant what I said earlier when I said next time we want to talk about a solution in search of a problem I want us all to hearken back to this bill. As I see this, we're kind of sticking our thumb in the eye of the consumer for no identifiable reason and certainly not a compelling one at that. So I would--I'll listen to the ongoing discussion, and I would urge you to vote green on the motion to bracket. [LB698]

SENATOR COASH: Thank you, Senator Lautenbaugh. Those wishing to speak: Senators Karpisek, Wallman, Hansen, Bloomfield, and others. Senator Karpisek, you are recognized. [LB698]

SENATOR KARPISEK: Thank you, Mr. President and members of the Legislature. Thank you, Senator Lautenbaugh, for putting in the bracket; that way I don't have to be the bad guy today or the whole bad guy. You're better at it. Some say he's funnier, too, and I agree, but I...he's not supposed to be. Senator Christensen, would you yield again, please? [LB698]

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

SENATOR CHRISTENSEN: Yes. [LB698]

SENATOR KARPISEK: I want to get back to our talk about taking anything out of gas to make ethanol. Now, do they really take anything out of gas when they put the ethanol in, or is it that they don't add something else? [LB698]

SENATOR CHRISTENSEN: It's they don't add it. [LB698]

SENATOR KARPISEK: Okay, so they would put it in. We've heard about that in California, I think, is it MTBE? [LB698]

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SENATOR CHRISTENSEN: Well, that--MTBE was taken out federally a number of years ago. [LB698]

SENATOR KARPISEK: But then they're putting it in, in California because they need one or the other--ethanol in to replace the MTBE? [LB698]

SENATOR CHRISTENSEN: No, it's not MTBE they're using now; it's them other chemicals that I was naming earlier. [LB698]

SENATOR KARPISEK: Or they could use ethanol, though, right, or not? [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR KARPISEK: Okay. Okay. I just wanted to get that straight for both of us, that they really don't take anything out, but they wouldn't have to add... [LB698]

SENATOR CHRISTENSEN: Correct. [LB698]

SENATOR KARPISEK: ...that. Okay, thank you, Senator Christensen. You know, we heard that...I'm glad Senator Christensen did say that this is a mandate coming from the feds. I'm glad to hear that. And I realize that too. That doesn't mean that I like it. And that doesn't mean that we have to go along with it. We've talked about Tenth Amendment rights in this body. We've talked about all sorts of things that the feds aren't going to tell us that we have to do. I think Senator Christensen might have brought a couple of those bills. So I'm going to say, no, we're not going to--we're going to stand up for ourselves on this one. I want to say again, we are not trying to fight ethanol here. I am not trying to fight ethanol. If we want to fight ethanol, we could. And I think we could bring up quite a few good reasons to do that, and we might even drop the use of ethanol in the state. That is not my intention, not at all. I want us to use as much ethanol as we can, you bet, status quo. How it is right now, I think we're doing just fine. We do have some ethanol plants that have been built or partially built, and they're not running; I think that was overzealousness on a lot of people's parts. Corn is over \$7 a bushel; is it 100 percent because of ethanol? No, it is not. But it's sure not hurting that price of corn, either. And I've said before on the mike, I'm glad that corn is up that high--other than the fact that my corn stove didn't run much this winter and the fact that things are higher in the grocery store, a lot of the time because of a perception, again, that corn flakes, all those things, have to go up because corn is higher, when it really doesn't cost that much more to make those things--the very little bit of corn or wheat that goes into bread. Again, perception is reality on some of those things. And what do we do about it? I was not in favor of this bill before I ever talked to anyone. When I saw it, I didn't like it. [LB698]

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SENATOR COASH: One minute. [LB698]

SENATOR KARPISEK: A lot of the e-mails that I have gotten are from people that I don't know. And I can tell that some of them are form e-mails and I will say, as Senator Lautenbaugh did, if you're going to forward a form e-mail, save your time; it'll probably make me vote the other way. However, I have gotten a lot from people that I know; I've talked to a lot of people that I know about this issue. The corn farmers that I know aren't even in favor of this--not all of them, many of them. I just don't think this is the path we want to go. Let's support our ethanol industry; let's be proud of it. But let's not hide what's in our gas. Thank you, Mr. President. [LB698]

SENATOR COASH: Thank you, Senator Karpisek. Senator Wallman, you are recognized. [LB698]

SENATOR WALLMAN: Good afternoon, Mr. President. My good friend Senator Karpisek, I am a corn farmer. And do I like this bill? Yes, I do. Is it...there's a perception of deception here. There's no thing that you have to put the label on, you know, or take it off. You can just choose. So why is a push back here on e-mail things? I remember when we got e-mails by the hundreds on this learning community issue; very, very few were for this issue. It passed out of this body by a big margin. Same thing with assessment issues, how we forced school districts to do this and consolidate. You got e-mails--there was hardly any for these bills, but we passed it here. So I would urge you to be careful if you read your e-mails. But I really read them myself, and I appreciate when they do. So I'm against this bracket motion. And I think we need a vote on the bill, and I would encourage green. Thank you, Mr. President. [LB698]

SENATOR COASH: Thank you, Senator Wallman. Those in the queue: Senators Hansen, Bloomfield, Cornett, and others. Senator Hansen, you are recognized. [LB698]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. If it's appropriate, I would like to talk about the bracket amendment to the bill. I'm not in favor of the bracket. I'm not...that, to me, says that you're not in favor of this bill at all. The bill is all right. Senator Carlson's priority bill is all right as long as we have a label of some sort that delineates ethanol gas from regular gas. That's what his amendment, AM1002, does. Senator Carlson earlier said...and would Senator Carlson yield? [LB698]

SENATOR COASH: Senator Carlson, will you yield? [LB698]

SENATOR CARLSON: Yes. [LB698]

SENATOR HANSEN: I don't want to put words in your mouth, but when you came back here a little while ago, when you introduced AM1002, you said you were going to pull it. Is that correct? [LB698]

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SENATOR CARLSON: That was the intent. I called it "intent," because that means I could always change my mind. [LB698]

SENATOR HANSEN: Okay. (Laugh) I didn't...I misunderstood that, then. And then later you...did you mention to me that you wanted to carry it to a vote? [LB698]

SENATOR CARLSON: I didn't say I wanted to, but you had another amendment to reintroduce, so why take the time to do that? We'd just as well vote on the one that I've got here since it's the same as yours. [LB698]

SENATOR HANSEN: Would it be true then that, you say that you are against the ethanol labels on the pump, would you also be against a label that said this is regular gas? [LB698]

SENATOR CARLSON: No, I'm not really...I'm not really against having something labeled as alcohol-free. [LB698]

SENATOR HANSEN: I wouldn't call it alcohol-free; I would just call it virgin gas, how's that? It doesn't have any ethanol in it. [LB698]

SENATOR CARLSON: Well, it's not supposed to have ethanol in it. [LB698]

SENATOR HANSEN: But it--but some pumps do. And that was my point a little while ago--that I went to Love's in North Platte; the regular that had an octane level of 87 cost a dime less than regular-plus that had an octane rating of 89. So am I to assume that that ethanol level in the regular is less than the regular-plus? [LB698]

SENATOR CARLSON: I think that's a really interesting question, because if we go back to...Big Oil is in it for profit. Anybody that runs a business needs to make a profit. There's nothing wrong with that. [LB698]

SENATOR HANSEN: Nothing wrong. [LB698]

SENATOR CARLSON: And they need to move the octane level in the least-expensive way possible, I would think. And so it would appear to me that maybe 87 had some ethanol in it in order to get the octane up there. Can't prove it. And nobody is going to enforce it unless there's a complaint. [LB698]

SENATOR HANSEN: You can prove it if you get the report from the Department of Ag, because those people with Weights and Measures goes out there and measures how much ethanol is in that tank. Right now it has 1 percent--or 10 percent or less. Is that--isn't that correct? [LB698]

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SENATOR CARLSON: Well, the federal government defines fuel as gasoline that's 10 percent or less ethanol; it's just gasoline. [LB698]

SENATOR HANSEN: And that's true when the Department of Ag tests it, I would assume. Is that correct? [LB698]

SENATOR CARLSON: You know, I don't know that. I would think if they were to test 87 that's labeled as unleaded and alcohol-free, it should be alcohol-free. [LB698]

SENATOR HANSEN: I don't know how they could get the octane rating up there. And I don't think they're interchangeable. And then I heard from another--thank you, Senator Carlson--I heard from another distributor in the area that every gallon that Love's sells at North Platte has ethanol in it. But the same company making profit at Aurora turns those backwards, that regular-plus is a dime cheaper than regular with 87 octane. The octanes were the same;... [LB698]

SENATOR COASH: One minute. [LB698]

SENATOR HANSEN: ...just the price was different. And I am still against the bracket. I am in business to make money, too. When we order a tank wagon with gas in it, we specify that we want regular no-lead gas. I double-checked that today; that's what we get; that's what we've always gotten, what we continue to get. And that's because we have old tractors that don't like ethanol. We have a lot of them--not a lot of them, but all the ones we have are old, with the exception of the diesels, and they're old diesels. But we need to have that regular gas. And those 5 percent of the people--if we have 95 percent of the gas in the country has ethanol in it, label the tank, label the pump that has regular gas in it. This is not favorable to the petroleum marketers. I did check that. They're saying... [LB698]

SENATOR COASH: Time, Senator. [LB698]

SENATOR HANSEN: ...thank you. [LB698]

SENATOR COASH: Senator Bloomfield, you are recognized. [LB698]

SENATOR BLOOMFIELD: Thank you, Mr. President. Members, I rise to reiterate my opposition to the underlying bill. I will not speak to the bracket at this time. I have a farmer friend up home that I've known for probably 25-30 years, maybe a little longer than that. He didn't send me an e-mail; he called me at home. He raises over 1,000 acres of corn. He owns part of two ethanol plants. He sells to those ethanol plants. And he is opposed to this bill. This is not being brought to us by, necessarily, Big Oil, as we've been repeatedly told. I would simply ask at this point, who brought this bill to fix

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what wasn't broken? It was not Big Oil; it was the ethanol. Thank you. [LB698]

SENATOR COASH: Thank you, Senator Bloomfield. Those in the queue wishing to speak: Senators Cornett, Christensen, and Carlson, and others. Senator Cornett. [LB698]

SENATOR CORNETT: Thank you very much, Mr. President, members of the body. I have not weighed in on this bill before, but there are things that I've heard...I was planning on just voting the way I was going to vote and not really say anything. But the statements that people are not opposed to this and that we're only receiving e-mails from Big Oil is not correct. I've received numerous e-mails from members of my legislative district and other legislative districts who are in opposition to this bill. They feel that it's a truth-in-marketing issue. In Revenue and over the last seven years I have done nothing but support ethanol as an industry in this state, and I will continue to do so. But I do not see why we need to remove the label on this. And from the e-mails that I've received from the citizens, I have not received an e-mail from a citizen in support of this bill. I don't know if I support the bracket motion at this time. I am going to continue to listen, but I do not support the underlying bill. Thank you. [LB698]

SENATOR COASH: Thank you, Senator Cornett. (Visitors introduced.) Returning to debate, Senator Christensen, you are recognized. Senator Christensen waives. Senator Carlson, you are recognized. Senator Carlson waives. Senator Ken Haar, you are recognized. [LB698]

SENATOR HAAR: Mr. President, members of the body, I wanted to get up and speak just a moment, because I voted yes on General File because of the promise of an amendment that there would be some kind of labeling involved. And I see those coming and going, so we'll see what happens here. But I read labels all the time. And I find that my constituents do the same. I read labels on food; I read labels on honey; I read country--you know, I favor country-of-origin labeling for beef. My wife and I disagree on the organic label, how important is that. The point I'm trying to make is that I think labels are really important for consumer choice. And not all consumers agree on the same things, but I think that should be up to them. So my wife will continue to buy organic fruit, and I will usually not, depending on price. So in the end, I do not favor LB698 unless there's some kind of very definitive labeling. It seems to me that if it ain't broke, don't fix it, and that we're trying to fix something now that, really, consumers have come to recognize and to use. Thank you very much. [LB698]

SENATOR COASH: Thank you, Senator Haar. Those still in the queue: Senators Karpisek, Lautenbaugh, and Carlson. Senator Karpisek, you are recognized. [LB698]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Just once again to get up, talk about Big Oil. I agree, we need to get away from Big Oil. We need

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to move along. We need to get more self-sufficient. And we're working on that. Trying to hide what a product--is not a way to be more self-sufficient. I don't think that not telling people what's in their gas is the way to increase sales. If that's what we're all about and that's the way we want business to be run, I think we're not looking at things the right way. That's not what we try to teach people; it's not what we try to teach these kids; it's not what we want people to do. We're going to put it in there; we're not going to label it, so you don't know. But you're going to use it because we think that you should use more. No. Tell me what's in it. Tell me what it is and let me decide. We've talked about the cost. I don't think we really want to go there. I think it is a wonderful thing for this state. We can sit around here in Lincoln and pat ourselves on the back all we want and talk about how smart we are because we're not in near the budget crunch other states are. If we didn't have the ag sector moving in the way that it has been, we would be in a world of hurt. And it's not been an easy session the way it is. We're cutting, we're cutting deep, we're cutting into things that no one wants to. So I am very glad that that economy is going. If rural Nebraska has any hope of staying alive, that's how it's going to be. We see less people farming more acres all the time. Technology gets into that. I've seen an article in the Lincoln Journal Star a couple weeks ago, maybe a month ago now, saying how much farm equipment is selling. Farmers are making more money; they're buying equipment. Great. That is exactly what we want. They'll buy things; the dealers will buy things. It's exactly what we want; it's working. Again, the price of grain affects some people negatively. People who are raising livestock--it's pretty tough on them right now. People who are running restaurants, that sort of thing--prices are up. Now, whether that is a real situation or not, I don't know. Some is, but I think some isn't. But that's how the market works. And I don't like it. But I think that is a little bit of how this works too. Why is gas so high right now? We hear about traders, something goes on, on the other side of the world and it's affected by that. Is there really that much less supply right now? Probably not. But that's how it's being used. That's how people make money. I sure don't think it's right. I don't think it needs to be at the price that it is. I do have to say I had to fill up in Lincoln the other day on the way home. Ethanol was higher. I haven't seen that... [LB698]

SENATOR COASH: One minute. [LB698]

SENATOR KARPISEK: ...back when I fill up every day to come here. I try to fill up at home, try to keep my money at home, those sales taxes at home. I have never seen that, where the ethanol is higher. But it was up here, and I don't know why. I think we've talked about that a little bit. I think that's a sham too. So to say that we are in favor of Big Oil, I don't think that's fair. I think we're just for the consumer by standing up and opposing LB698. Thank you, Mr. President. [LB698]

SENATOR COASH: Thank you, Senator Karpisek. Senator Carlson, you are recognized. Senator Carlson waives. Senator Hansen, you are recognized. [LB698]

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SENATOR HANSEN: Thank you, Mr. President. As I was so abruptly just turned off here a little bit ago, Mr. President--but I do appreciate you recognizing me again. Petroleum marketers--and that's where Senator Carlson started this whole conversation off, is that they caused the uproar. I don't believe that. I think they were the--they were one part of it maybe, but it was a public uproar. And I've got e-mails from the district; I've got e-mails from across the state. And they were not form e-mails, because I know the difference after four years what the form e-mails look like. These were thought out, thoughtful, some irate. But they were thought-out individual e-mails, and I appreciate that type of e-mails. One thing I want to bring up is a--this is an article from MeatingPlace; it's a Web site that I subscribe to; they have updates in the beef cattle industry. And it...headline--it was last Saturday, came out last Saturday--USDA raised its forecast of U.S. corn for use in the ethanol industry. Corn used to produce ethanol is raised 50 million bushels as a strong blender incentive and positive ethanol producer margins continue to encourage and expand ethanol production for corn use. This is 50 million more bushels of corn going into ethanol. This is a USDA estimation, but it's probably, you know, accurate at some point in time. So ethanol is a continuing-to-grow industry. It continues to grow more and more, whether we have 80 percent use in Nebraska or not. Federal standards are increasing; we need to use more ethanol for cleaner air. Where do we need cleaner air? We probably don't need it in Nebraska, but we need it on both coasts. We need it along the Texas gulf, where the population is. We need it in Omaha, where the air is--nah, it's not that dirty, but it is...you know, we need ethanol in the populated areas, and Omaha certainly is one of those. So it's appropriate that we do use it. My point is still that I'm against the bracket motion. I think we should defeat that, if at all possible; go ahead and vote on Senator Carlson's amendment, AM1002. Thank you, Mr. President. [LB698]

SENATOR COASH: Thank you, Senator Hansen. Senator Lautenbaugh, you are recognized. The Legislature will stand at ease. Mr. Speaker for an announcement. [LB698]

SPEAKER FLOOD: Thank you, Mr. President, members, soon to be good evening. I've had an opportunity to visit with the bill's sponsor, Senator Christensen. Given the objections raised and upon consultation with folks in the ethanol industry across the state, Senator Christensen--and I should say their representatives--is going to be filing a motion to lay this bill over, which will end our discussion on ethanol as it relates to LB698 this year. As part of that agreement, Senator Lautenbaugh is going to pull his bracket, Senator Hansen is going to pull his amendment, Senator Carlson is going to pull his amendment, and Senator Lautenbaugh has one final amendment. And that should be the--what happens from here forward. So with that, thank you very much for everybody's work on this bill, and I want to, again, appreciate Senator Christensen and Senator Carlson for recognizing the situation here and allowing us to move forward. [LB698]

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SENATOR COASH: Thank you, Speaker. Senator Lautenbaugh. [LB698]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I would like to pull my bracket motion at this time. [LB698]

SENATOR COASH: Without objection, the bracket motion is withdrawn. We return to discussion on AM1002. Senator Carlson. Mr. Clerk. [LB698]

CLERK: With that, Mr. President, Senator Hansen, AM1207. [LB698]

SENATOR HANSEN: I'd like to withdraw AM1207. [LB698]

CLERK: Mr. President, then, Senator Lautenbaugh, I have FA9. [LB698]

SENATOR COASH: Senator Lautenbaugh. [LB698]

SENATOR LAUTENBAUGH: All right, thank you, Mr. President. I would like to withdraw FA9. [LB698]

CLERK: Nine, yes, sir. Thanks. Oh, Senator Carlson, I'm sorry. I forgot your amendment that was pending, Senator. [LB698]

SENATOR CARLSON: I'd like to withdraw AM1002. [LB698]

CLERK: Thank you, Senator. Mr. President, in that case, Senator Christensen would move to indefinitely postpone LB698. Senator Christensen, you have the option to lay the bill over at this time. [LB698]

SENATOR COASH: Senator Christensen. [LB698]

SENATOR CHRISTENSEN: Yes, lay it over. [LB698]

SENATOR COASH: LB698 is indefinitely postponed. Mr. Clerk, items? [LB698]

CLERK: Mr. President, I have amendments to be printed: Senator Harms to LB388A; Senator Nelson to LB606; Senator Campbell to LB600; Senator Adams to LB637; Senator Christensen to LB648. (Legislative Journal pages 1195-1197.) [LB388A LB606 LB600 LB637 LB648]

And, Mr. President, I have a priority motion. Senator Campbell would move to adjourn the body until Thursday morning, April 14, at 9:00 a.m.

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

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Those opposed say nay. We are adjourned.