

PRESIDENT ROBAK: The Chair recognizes Senator Withem to open on his amendment or on his motion.

SPEAKER WITHEM: Yes, very briefly, and I might ask Senator McKenzie if she is in agreement with some analysis that we've received on this bill. I had originally filed this motion at the request of AGP. It's a Nebraska-based company that is developing an ethanol plant in the Hastings area, and I became involved in that because of a friend of mine who serves on the ethanol board brought this matter to my attention. They were concerned about an amendment that was adopted to LB 377 on Select File sponsored by Senator Kristensen. I believe Senator Kristensen's goal was to plug a potential loophole, so he added a provision relative to the company in order to qualify for the ethanol credit had to meet certain production levels by at a particular time. AGP had absolutely no concerns with this...with their ability to meet these conditions under normal circumstances, but they were concerned if unnatural circumstances, such as a tornado, maybe a depletion of the corn supply, terrorist attack, those type of things that are unforeseen might keep them from coming on line, so they asked me to introduce an amendment basically indicating under an act of God or with an existing contract, the Kristensen amendment would not apply to them. We've had lots of discussions with people concerning this bill. I think the consensus of the membership, of those individuals concerned about this bill is that (a) they did not want to cause this company that is producing this plant in Hastings any additional grief, and it was not intended to apply to them, but (b) they don't particularly want to see LB 377, at this late date, returned back to Select File because it is a bill that's had its own contentious history. So what has been done is that with kind of the filing of the amendment being the impetus for this action, Senator McKenzie has requested an Attorney General's Opinion. The Governor's Office asked for a letter from Mr. M. Berri Balka. Both of them have concluded that because this company, AGC, AGP has a signed contract that the new provisions contained in Section 7 of LB 377 would operate prospectively and would not apply to existing ethanol production credit agreements between ethanol producers and the Nebraska Department of Revenue. Because this company has one of these, I really see no need for the amendment. I would withdraw that, but I would yield some of my time to either Senator Kristensen or Senator McKenzie, or both of them. Maybe they can both talk at the same time. Senator