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Agriculture Committee
September 28, 2012

[LR557 LR559]

The Committee on Agriculture met at 1:30 p.m. on Friday, September 28, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR559 and LR557. Senators present: Tom Carlson, Chairperson; Norm Wallman, Vice Chairperson; Lydia Brasch; Russ Karpisek; and Tyson Larson. Senators absent: Dave Bloomfield; Burke Harr; and Steve Lathrop. Also present: Ken Schilz.

SENATOR CARLSON: Okay, welcome to the September 28 Ag Committee interim hearing. And I'm Senator Tom Carlson from Holdrege. To my right here is Rick Leonard, the research analyst of the Ag Committee; and over here to my far left is Barb DeRiese, the committee clerk. Our pages today, over there, are Paige Schreiber from Columbus. Do you want to wave? And Amara Meyer from Brule. So we appreciate them being here. Now to my right, Senator Lydia Brasch from Bancroft; Senator Norm Wallman from Cortland who is Vice Chair of the committee; Senator Tyson Larson from O'Neill; and then with us also today is Senator Ken Schilz from Ogallala, so, he'll be in on the hearing today. Most of you know this, but as a reminder, if you're going to testify, please grab a green sheet from back by the door and fill that out and have that ready to go when you do come forward to testify. And Senator Russ Karpisek is just joining us, appreciate him being here. Make sure we can read what you put on that form, that always makes it easier. If you have material to hand out, give it to one of the pages and they will hand it out to the committee. And speak clearly into the microphone so that we can pick it up on the tape. And please spell your name, as well as giving us your name so that, again, for the transcription that can be picked up. If you don't want to testify, but want to acknowledge that you're here, there is a white sheet to sign back there and then that will be evidence that you, in fact, were here as a part of the hearing. Please either turn your cell phones off or put them on vibrate during the hearing, and I'd ask the same of Senator Karpisek. (Laughter) And, of course, we don't have any outward emotional displays of reaction to what the testifiers have to say. So with that we'll get into LR559

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and I want to introduce that from where I sit here rather than coming around to the table, but would ask you as you testify to come up and sit down at the table. We're going to try not to use the lights today. If it goes along smoothly, we won't have to; if it doesn't, we'll start using them and hopefully your comments are held to five minutes or less and then if there are any questions of you, we don't count that time. But LR559 is to examine the structural models to enhance the accountability of commodity checkoff programs. And it follows LB1057 from last session which increased the corn checkoff amount from a quarter of a cent per bushel to a half cent per bushel. Now during the floor debate on that bill, there was an intent expressed to further study the checkoff policies to determine if improvements could be pursued and that's why we're here today. We want input from the Ag Committee on prospective changes, and from the ag community on prospective changes. And we know, and through discussion, that our checkoff programs lack some elements of checkoff programs that are found in other states. And our primary interests are the direct election of board members by producers, the refundability of assessments, and major changes being subject to referendum. And at the present time only the Dry Bean Resources Act and the Nebraska Egg and Poultry Products Act allow requests for refunds. So that's my introduction as far as the committee is concerned with our study today. Does the committee have any questions? Well, we are interested in input and this is not a process where we're asking for proponents of a bill to come forth and then opponents, but we simply want input on this subject. So whoever is bold enough to step forward first, feel free to do that and we'll proceed. Welcome. [LR559]

TIM SCHEER: (Exhibit 1) Thank you. Thank you, Senator Carlson. Chairman Carlson and members of the Ag Committee, my name is Tim Scheer, T-i-m S-c-h-e-e-r. I serve as the chairman of the Nebraska Corn Board, which represents the 23,000 corn farmers of Nebraska through their checkoff investments. First off, let me say thank you for introducing LB1057 last session which put in place a corn checkoff increase from one-fourth of a cent per bushel to half a cent per bushel beginning October 1 of this year. As a point of clarification, the net checkoff will actually decrease since the EPIC

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checkoff expires also on October 1. Again, thank you to the senators that voted in support of this increase. Our board will be putting those dollars to use in the area of market development, research, and education, and promotion. My testimony concerning LR559, which examines the potential structural models of commodity development programs, addresses a couple of different areas; those being how we can be more flexible, more accountable to producers, and most importantly, most efficient with our time and resources. This includes not only corn, but the livestock and ethanol industries that add value to our products. These industries are often under attack, and it is imperative that we defend them and help educate consumers about agriculture as a whole. Our board and the Nebraska Corn Growers Association agreed unanimously that the Corn Resources Act should reflect more of a quasi state agency status versus the current noncode state agency status. We have worked on a new draft of the...new Corn Resources Act that would permit this quasi status. Across the United States, every states' commodity checkoff program is created by their respective state legislatures. But very few of those are actually defined as a state agency operating under the guidelines of state government, whereby most are operating in an independent or quasi structure whereby a board of directors is elected by producers and they direct a staff to implement the decisions of the board of directors. Most all have a connection to their respective departments of agriculture, which either serves as an ex officio or is a collection point for their checkoff. Their staffs are not state employees and their expenditures do not have to be approved by another state agency. They all have established a set of guidelines on expenditures, full accountability and yet some degree of flexibility to make decisions on behalf of those that pay the checkoff. If producers don't agree with the board member decisions, they can ask for a refund of their checkoff contributions. Allow me to use Iowa as an example, a state where the checkoff is defined as quasi and the corn checkoff does not operate as a state agency. They operate in partnership with their state corn growers' organization and they report to their secretary of ag. Their board is elected and their producers can ask for a refund. They just recently passed a checkoff increase to go from three-quarters of a cent per bushel to a full penny and over 70 percent of their corn producers supported that increase. It is

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our understanding that Mr. Rick Leonard has done some research as well on other state corn checkoff programs and we believe his research bears out what we have all observed. I will conclude with a list of what our board sees as considerations for a new structure of the corn commodity checkoff program in Nebraska: Removed from the state budget process, but reports to the Appropriations Committee, Ag Committee and those reports are shared with the full Legislature; operates with a mandatory checkoff, but with a right of refund; an orderly transition from board members being appointed by the Governor to elected by corn farmers; the ability to relocate outside of the State Office Building at a location approved by the board that could allow similar commodity boards and associations to share resources; staff would not be state employees, but could be contract employees or employees under the board of directors. Last year Nebraska Farm Bureau and Farmers Union agreed they would like to see the board elected and a refund provision; we agree as well. We have worked for three years on a draft of a new Corn Resources Act that we would hope you could review and consider. As a self-funded program which is accountable to the legislative body, audited, with an elected board, a right of refund, and operating not as a state agency, we believe we can be more effective and accountable to both the Legislature and to the very producers who pay the checkoff. We oftentimes feel like the proverbial square peg trying to fit in a round hole. Our staff's job descriptions are somewhat unique and do not fit with how most state employee job descriptions are written. We believe we can operate more efficiently and still be accountable without always having to go through numerous state agencies to get our job done. I assure you that this is something we have looked at for years, and we spent numerous hours putting this draft together with the Nebraska Corn Growers Association and with our states' input. I would be happy to answer any questions and I have a number of fellow board members here that would be willing to either comment or address some of your questions also. [LR559]

SENATOR CARLSON: Okay. Thank you, Tim, for your testimony. And if it doesn't get answered here, and there are other things that other board members want to comment on, we just ask them to follow you in the process of our hearing. Any questions from the

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committee? Senator Larson. [LR559]

SENATOR LARSON: Thank you, Mr. Scheer, for coming. And I really appreciate you and the stance that the Corn Board has taken. I think we know that Iowa was the one that had a...was one of the ones that had a problem last year with us having to raise the checkoff without, you know, taxation without representation, the corn farmers didn't...my constituents that are farmers...everybody's constituents didn't have a say, you know, if they didn't want it raised, or what, you know, and so I find this as a breath of fresh air. I'm very happy that you guys want to move to a quasi agency and elect the board members and put that, you know, give you guys your own ability to raise the checkoff. I think that's what needs to be done. And I just, I guess, I want to say I really appreciate it and the work that you guys have done, and I hope to continue to work with you guys as we move this forward. So, thank you. [LR559]

TIM SCHEER: Thank you. Hopefully the mandatory with right of refund addresses your issues. Thank you. [LR559]

SENATOR CARLSON: Okay, other questions? Senator Karpisek. [LR559]

SENATOR KARPISEK: Thank you, Senator Carlson. Thank you, Mr. Scheer. Do you have any...I'm sure you do, but what's this crop going to do for your income? [LR559]

TIM SCHEER: As a corn board? [LR559]

SENATOR KARPISEK: This year, yeah. With the checkoff with the poor yields. [LR559]

TIM SCHEER: We've addressed it one time already and revised our budget accordingly as to what we saw at that point, which would have been in August. We probably will have to revise it one more time. Now the reports that came out lately have given us slightly more hope that maybe we don't have as much to do as we did. We went back

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through where we were at with our business plan and tried to make those cuts accordingly. And also is what we foresaw with some of our market development that maybe would or wouldn't be coming down the line. [LR559]

SENATOR KARPISEK: But at least this going to the half cent should help? [LR559]

TIM SCHEER: Well, yeah. I mean if we were still sending in a quarter of a cent with the current situation, we would be scrambling to make ends meet with the current...basically, what we would consider baseline budgeting. And now since we had the increase, thank god, they corresponded, you know, that we were able to cover everything that we need as a baseline, plus some of the additional things that were in the business plan. So we're able to address some of them, but, hopefully, as we get to where we think we'll be a year or two from now we'll be better off and address all of those. [LR559]

SENATOR KARPISEK: And could you just tell me real quick if it was...if somebody asked for their money back, if that's where we go, how that would work. [LR559]

TIM SCHEER: I think that's something... [LR559]

SENATOR KARPISEK: Or you probably...we're not that far yet. [LR559]

TIM SCHEER: I don't think we're that far along, but I think we could make it fairly simple, you know, it would be within so many days of when they actually received the funds, a simple piece of paper that they would fill out and send to whoever we determine would be the appropriate person to send it to. And we would look at it and send it back accordingly...proof of actually paying it would probably be the biggest thing, and once that's done we would send it back accordingly. [LR559]

SENATOR KARPISEK: And so there wouldn't be any reasoning, you don't think, why

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they could just say we don't want to and that's it. [LR559]

TIM SCHEER: I think their reasoning could be whatever they want it to be. I don't think we...I don't know that we would ask for a response of why. But we could discuss that. [LR559]

SENATOR KARPISEK: And in other states where they do that, is there a big percentage of people who do ask for it back? [LR559]

TIM SCHEER: You know, I think there have been certain states that have ran into a particular issue, kind of like what we're discussing, where maybe because they don't agree with what the board has done that there's been an increase, but I think most states are running less than a 10 percent refund number. [LR559]

SENATOR KARPISEK: Okay. Thank you. Thank you, Senator Carlson. [LR559]

SENATOR CARLSON: Yes, Senator Brasch. [LR559]

SENATOR BRASCH: Thank you, Chairman, I...Senator Karpisek's question and your response did raise a question for me. When you had mentioned that thank goodness for the increase because you'd be struggling, well, many farmers are struggling right now. [LR559]

TIM SCHEER: Um-hum. [LR559]

SENATOR BRASCH: And your funds are going into education or programs. What kind of programs...I do know, I went to a field test plot up there in Tekamah this summer looking at some irrigated land by Scott Olson's, that several entities had contributed to. I don't recall that the Corn Checkoff, but Mon...I won't do commercials here, but people did donate money, I guess, into this plot that's carefully followed on the impact of

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flooding. Is that a program? Do you know? Did you... [LR559]

TIM SCHEER: I do not specifically know on that one. But I'm sure that we have somebody here that could answer that down the road. [LR559]

SENATOR BRASCH: Okay. Okay. And then when we're looking at a drought here and because of the increase, are there funds...or education programs for drought moving forward, you know, give me just a little window of what you are actively doing as part of the program? [LR559]

TIM SCHEER: Well, and some of this would be probably something we would look at more next year, because, obviously, we didn't foresee the drought coming this year and, you know, maybe we weren't foresight enough to have that in some of our research dollars. But, yes, some of our programs will probably, with drought mitigation and how farmers can react to that and what they can do on their farms, I mean, it would be something that we would entertain as a research project. I think your original question was kind of where most of our money is spent and we spend a lot of money in market development which, obviously, drought or no drought we have to develop markets for our products whether we have an excess or if we just have what we're having this year, enough to get by. Education, again, education of individual farmers and production practices and things like that are part of what we do, but educating the general public, not only on the corn industry but the ag industry in general. [LR559]

SENATOR BRASCH: Very good, thank you. [LR559]

TIM SCHEER: I hope I answered your question. Like I said, I think that specific one somebody could address later and maybe answer specifically too. [LR559]

SENATOR BRASCH: Thank you. [LR559]

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TIM SCHEER: Thank you. [LR559]

SENATOR CARLSON: Any other questions? Well, Tim, you're getting hit the hardest because you're the president. So, you're probably getting more questions here than what several others will get. But I want to comment on something and then kind of get your reaction to it because we understand the desire to become what we'll call a quasi-government agency. The reality of it is, there is opposition...I don't know if opposition is a good...hesitancy to this in the executive branch and in the Department of Agriculture. That's the way it is. Now whether it happens to be this Governor or the next Governor, I think another reality is that whoever is elected to a position...whoever is elected Governor has all kinds of departments that they have to become conversant with. And so initially I think most of them listen to the people that are in those departments and what their desires are. So I don't know that the change of a Governor necessarily changes an attitude quickly about a part of the government becoming a quasi-government agency. The other thing is that if we continue along the same lines and relationships that we're on right now, then in order to get where you want to go, you would have to really convince this committee that this is the right thing. And we take it to the Legislature, and the Legislature becomes convinced enough that that's the right thing to do so that there are enough votes on it to override a veto. That's just the way it is. We've done it. Last session we did it three times. And that's the way government is supposed to operate, independently. So having said that, short of becoming a quasi-government agency, are you prepared to identify things that if that doesn't happen, here are changes that we'd like to see? At the same time, I think probably the committee, and I'm speaking for myself, but I believe most of us would think that it's a good idea to have producers elect board members. I think it's a good idea that maybe on significant changes a referendum is necessary. And...what did I leave out? That...forgive my...the...oh, refundability, refundability, which we don't have now. So, and you've expressed those are things you're interested in anyway. What are other things then that you wish were changed if it doesn't become a group separate from a government agency? [LR559]

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TIM SCHEER: Well, I think the things that you mentioned are, obviously, right at the top of the list. One of the other things is just the bureaucracy and the inefficiencies that we go through with some of our systems. And again, I probably have somebody here that could probably speak better to what some of those are. I think Mr. Leonard is familiar with some of the issues that we've ran into and some of the other states don't have to deal with. But what you've said are definitely at the top of the list. And I know I'm the chairman and I should be able to speak for the board, but I don't know specifically on some of these things without having a board meeting and discussing that I would say specifically this is what we do or don't want. But I know that we have a laundry list of things that would help us be more efficient, be more responsive to producers, and leave us completely accountable to the state and the Legislature. [LR559]

SENATOR CARLSON: Well, one of those things that I see on here is the possibility of having employees not as state employees, so. And we don't expect you to have all the answers. But those of you that are listening, as you come up, if you can see other things that...aside from these main topics that we've discussed, that would be helpful if those were changed, then we would like to hear about that too, so. That's my spiel here. [LR559]

TIM SCHEER: Yeah, thank you, yeah. [LR559]

SENATOR CARLSON: Any other questions? Okay, thanks for your testimony. [LR559]

TIM SCHEER: Thank you very much for the opportunity. [LR559]

SENATOR CARLSON: Next testifier. Let's be ready from now on. Steve, you come on up, come on up. They're hesitating a little bit. Go ahead. [LR559]

STEVE NELSON: (Exhibit 2) Good afternoon, Senator and members of the Ag

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Committee. I'm Steve Nelson. I'm president of...S-t-e-v-e N-e-l-s-o-n. I'm a farmer from Axtell. My son and I farm and raise corn, seed corn, and soybeans in Kearney, Franklin, and Phelps County; currently serve as president of the Nebraska Farm Bureau and am pleased to be here today on behalf of Nebraska Farm Bureau to offer comments in regards to LR559. It is our understanding that the intent of LR559 and this hearing is to examine checkoff programs in the state and look at broad policies concerning checkoff programs in general, and not focus specifically on particular programs. It is in that vein that I offer our comments. Nebraska Farm Bureau is a longtime supporter of Nebraska commodity checkoff programs, and our members continue to support these programs. Last year, in anticipation of activity in the Legislature on checkoffs, our members engaged in considerable discussion and significantly rewrote our checkoff policy at our annual meeting. That is on the back of the testimony...the comments that I offer and so I'm not going to go into every aspect of that. You will note our support of checkoff programs is founded on the principles of investing in commodity promotion, research, and education. The goal of these activities should be to create new market opportunities for the respective commodities. The policy further states that checkoff dollars should not be used to influence legislation. Right now, state checkoff programs cannot lobby on state legislation, however, some checkoff programs can use a percentage of their funds to seek to influence national legislation. Our members believe lobbying activities should not be funded through checkoff programs and would support provisions to restrict this activity. Another underlying theme in our policy statement is that the checkoff programs must have broad-based producer support. Statements in support of the election of board members, a mandatory checkoff with the refund provision, and assuring changes in rates can only occur with producer input, all testified to the belief that the programs must be producer supported. We greatly appreciate the opportunity to testify or to offer our comments this afternoon, and I'd be happy to answer any questions that you might have. [LR559]

SENATOR CARLSON: Okay, Steve, thank you for your testimony. Any questions of the committee? Senator Schilz. [LR559]

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SENATOR SCHILZ: Thank you, Senator Carlson. Steve, good afternoon, thanks for coming in. [LR559]

STEVE NELSON: You're welcome. [LR559]

SENATOR SCHILZ: I see when you talk about the lobbying efforts on part of some of these checkoff programs, what is, in your opinion, and maybe you know, how did that come about and what is the reasoning behind not wanting checkoff programs to be up to the lobby? [LR559]

STEVE NELSON: Well, I think it's the thinking of our members and the thinking behind our policy that producer organizations, general organizations like ours, or the commodity organizations who have elected members that vote on their policies and vote on their actions are really the best ones to lobby, rather than having what is essentially a tax-funded entity, which checkoff is a tax, to...and it certainly is a tax that...or a...you know, we support the checkoffs, don't get me wrong there, but that's not the appropriate way for lobbying to take place. [LR559]

SENATOR SCHILZ: Okay, thank you. [LR559]

SENATOR CARLSON: Okay, any other questions? All right. Well, thank you. See, we let you off easier than Tim. [LR559]

STEVE NELSON: Yeah, yeah. Must be a football game tomorrow. (Laughter) [LR559]

SENATOR CARLSON: Thank you. [LR559]

STEVE NELSON: Thank you. [LR559]

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SENATOR CARLSON: Next. Welcome, Pat. [LR559]

PAT PTACEK: (Exhibit 3) Good afternoon, Senator Carlson, members of the committee. My name is Pat Ptacek. I'm testifying today on behalf of the Association of Nebraska Ethanol Producers to address interim study resolution LR559. I'm pleased to have this opportunity to respond to the request from Senator Carlson to examine the commodity development programs and to suggest how to increase flexibility, increase resources, and accountability to commodity producers. The first commodity checkoff program of which I have knowledge was initiated by the Nebraska Legislature in 1955 at the request and with the support of the Nebraska Wheat Growers. Senator Don McGinley was a legislator at that time and introduced the bill which was known as the Wheat Development Act. The Nebraska Wheat Board aggressively pursued and developed new markets for wheat throughout the world and the Wheat Board was also instrumental in the promotion of high-quality hard red winter wheat worldwide. At one point the Wheat Board assembled a trainload of high-quality, identity preserved wheat delivered to Finland, something which I believe has never been duplicated. The Nebraska Ethanol Board was established by the Legislature in 1971 with the support of the Nebraska Wheat Board. Additional checkoff programs were added beginning with the corn checkoff program in 1978. There was considerable discussion at the time as to whether the checkoff should allow for a complete or partial refund. Farm organizations such as the Nebraska Wheat Growers, corn, and sorghum producers argued that it would be impossible to develop a program and establish a budget if refunds were allowed. The Legislature chose to enact legislation without providing for a refund. The Legislature also gave the commodity boards broad discretion as to how to use those checkoff funds. The principal mandate delivered to the commodity boards was that their job was to find new uses for agricultural products and to enhance farm income. It was the early commodity boards, but the Legislature expected that they would take some risks and we did not expect a 100 percent success rate. That did not mean that we did not expect the boards to be prudent in their use of checkoff dollars. We also expected that the commodity boards would report on their expenditures of funds annually. In

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1986, the Legislature enacted a checkoff of one and one-half cent per bushel on all corn, sorghum, and wheat produced in Nebraska over a year-and-one-half period. That legislation allowed the producers to request a refund of one cent per bushel of the checkoff if the producer so requested. Interestingly, only about 20 percent of the total funds were requested to be returned to producers. The balance of the fund, approximately \$17 million, was the origination of the Nebraska Ethanol Producers Incentive Fund. That fund provided the basis for the incentive programs which has contributed to the establishment of the ethanol industry in Nebraska today. The corn, wheat, and sorghum boards were all supportive of the development of the ethanol industry. Since the ethanol industry was only an idea in the minds of a few people in 1978, we must commend the commodity boards for their willingness to assist in the development of that industry. That is why it is important that we allow the commodity boards to have flexibility to encourage and develop new ideas as to how to improve economic conditions for future farmers. There's no doubt in my mind that when the Agriculture Committee meets 25 years from now, those members will be able to take some additional examples of success that contributed to a better farm economy from the utilization of farm commodities that are not known today. It has been my privilege to watch the developing progress and success of the operation of the commodity boards. There would still be an ethanol industry in Nebraska today if we had not established the Wheat Board, the Ethanol Board, and the Corn and Sorghum Boards, but in my opinion, it would be much different than the successful operations we have today. Nebraska's position as a leading livestock producer in the nation has been enhanced by the assistance of commodity boards and grower organizations. And there is always the tendency to try to improve upon a program, and I'm not opposed to that, but if a program is working well, it does not usually need major renovations. If we were to offer any suggestions, we would suggest that there be increased communication between all of the entities charged with the responsibility of improving economic conditions for farmers and livestock producers. There will always be some conflicts, but those conflicts can be resolved through discussion between individuals. To summarize, we only need to look toward the economic conditions of farmers and livestock producers prior to the

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establishment of these programs and take note of the economic conditions of those same people today. With the successful record on which to build the commodity programs, the groups must continue to do their work. I would be glad to answer any questions if there are any from the committee. [LR559]

SENATOR CARLSON: Okay, Pat, thanks for the historical references here in your report. And you are the only testifier I know of that could get through this in about five minutes. [LR559]

PAT PTACEK: Well, I just knew that you were kind of...sitting there tapping that watch, so I thought I would read it as fast as I could. [LR559]

SENATOR CARLSON: Okay, all right. Thank you. Yes, Senator Wallman. [LR559]

SENATOR WALLMAN: Thank you, Pat, for coming. And I do appreciate checkoffs. And I'm worried if mega-farmers, you know, like in Illinois and Iowa if they all request their money back will that affect the budget? And number two, I really appreciate what the soybean checkoff do in advertising for poultry, pork, beef. Do you think the corn is doing enough on that? [LR559]

PAT PTACEK: I think the corn has done an outstanding job with their membership in U.S. Meat Export Federation, with their work at the local corn growers associations, their outreach with the cattle producers to...not only to, obviously, in feed trials, but also to make sure that they're aware of the abundance and the high protein feed of DDGs, which is a by-product of ethanol. They've done some splendid work on the national and state levels. [LR559]

SENATOR WALLMAN: Good. Thanks. [LR559]

SENATOR CARLSON: Any other questions? I agree with Senator Wallman about what

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soybean does, but I think even with the increase that you've had in this commodity checkoff, it's probably about a dollar an acre and I think soybeans are well over \$2 an acre. So, there's quite a difference in the amount of money coming in. [LR559]

PAT PTACEK: Um-hum. [LR559]

SENATOR CARLSON: Any other questions of Pat? Okay, thank you for your testimony. [LR559]

PAT PTACEK: Thank you. [LR559]

SENATOR CARLSON: Next testifier. [LR559]

KELLY BRUNKHORST: Good afternoon, Senator Carlson. My name is Kelly Brunkhorst, K-e-l-l-y B-r-u-n-k-h-o-r-s-t. I just wanted to come up and offer a couple points of information for Senator Brasch's questions specifically to the drought and maybe some of the programs, the research the board has undertaken. My position on staff is director of research, and so I oversee and work closely with not only producers, but also with the university; and specifically a couple programs I wanted to highlight this year that maybe we didn't foresee affecting some of the outcomes due to the drought. But I think some of the outcomes are going to be good information as we move forward due to the drought. One of them, specifically, is we're working with the university on on-farm research. So there's been lots of questions in regards to: are the small-scale plots effective in representing what we may see in larger-scale fields? And so we are working with producers across the state and with the university and the Nebraska Corn Growers Association to work on a more...a fuller scale, or a field-type representation. And I think some of those projects are going to serve us very well as we look back and see the lack of rainfall we had and some of the responses we had to some of the various projects. The other one I do want to highlight, too, is some of our work that we've been working with at the university on limited irrigation. So in other words,

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especially this year when we saw some of the effects of the drought, some areas were limited on the amount of water that they were able to apply at certain times of the year. Our hope is that when we go through, we can better understand key times during the growing season when water is most beneficial to that crop and will maximize basically every drop that we can put on that corn when we're in a limited situation. So just a couple points of clarification I did want to bring up since you asked the question. And I'd be happy to answer any other questions you may have. [LR559]

SENATOR CARLSON: Okay, thank you, Kelly. Any questions? Yes, Senator Brasch. [LR559]

SENATOR BRASCH: Thank you, Chairman. And thank you for your testimony here today. And my question was twofold: one was, when I went to look at a post-Missouri River flooding plot, there was the University of Kansas, Missouri and Nebraska there, and they have an entire grid of different seeds; it was all irrigated, watching the seeds grow. Many, many of the cornstalks looked as if they could have been part of a drought. They were studying that. One of the things they indicated is lack of funds. And I did get a handout that listed several entities, some corn grow...corn seed companies, some soybean, that helped financially to support this, but it still was, you know, they're doing ongoing studies of it. Is that something...do you know, did the checkoff program participate in that directly? [LR559]

KELLY BRUNKHORST: Not that I'm aware of directly. What we do annually is we send out a request for proposals. And that's the opportunity for the university to send us various projects. We go through those projects as a committee and then finally as a board and approve the projects we fit...or we see...or the board sees that fit the business plan or the objectives and priorities of the board each year. We were very much aware of some of the drought, and I can't say that we were directly involved, but I don't know if we may be indirectly. So in other words some of our... [LR559]

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SENATOR BRASCH: And it's the flood...the flooding is what I'm... [LR559]

KELLY BRUNKHORST: Yeah, or flooding, I'm sorry. But indirectly may have been involved in some of the various programs that we are involved with the university, some of those may be in research in some of the plots that you were at. [LR559]

SENATOR BRASCH: Okay, very good. Thank you. [LR559]

SENATOR CARLSON: Okay, any other questions? Senator Schilz. [LR559]

SENATOR SCHILZ: Thank you, Senator Carlson. And, Mr. Brunkhorst, thanks for coming in. And I understand that you are on staff. [LR559]

KELLY BRUNKHORST: That's correct. [LR559]

SENATOR SCHILZ: That's correct. And as a...as I sit here and listened to Mr. Scheer's testimony, he mentioned...what was it...oh yeah, square peg in a round hole. Being on staff, can you maybe enlighten us on what he might have meant by that? [LR559]

KELLY BRUNKHORST: Throughout the year, and actually throughout the years, we have been put in situations, were asked questions of clarification, and some of the programs of the state of Nebraska that we're required to follow don't fit the model of a commodity program such as ours, or any checkoff program in the state of Nebraska. I'll just highlight a couple of examples and hopefully that answers your question to some degree. If you go back about two years ago, as part of the state of Nebraska, the Governor required furloughing of employees. We don't accept any General Funds. We had to furlough one of our employees. That furloughing hurt our budget because that employee took two days off as per requirement, but it didn't save the General Fund any money. You know, it's kind of that square peg in a round hole type of thing. One most recently that we've run into is when we provide funding to cooperators. Senator Carlson

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highlighted one of them and so did Pat, the U.S. Meat Export Federation. The questions have come back to us over the past couple of years is, is that a sole-source provider? Or should that opportunity be bid out? Well, if you look at the U.S. Grains Council, as you look at the U.S. Meat Export Federation, they are a sole-source provider. Nobody...no other organization or association has international employees, offices in international places to promote our products, whether it be our grains or our value-added products in a worldwide market. It's a sole-source provider. But we've taken time to answer questions. One afternoon we got numerous phone calls on the same sole-source or deviation request on that issue. That's just a couple of things; we have a list of others we can provide to you if you would so like. [LR559]

SENATOR SCHILZ: I think that would be beneficial. And then as we talk about the bureaucracy and how that goes on, does that affect the day-to-day operations? Are you not able to accomplish some things because of that bureaucracy, or does it take you longer than you think it should? Or is it precluding you from doing certain programs and other things that you think is vital for promotion of the commodity? [LR559]

KELLY BRUNKHORST: Great question, Senator. I think I look at it in regards to efficiency. And when you have to continually go back, and I'll just go back to the one I just highlighted on the deviations and sole-source questions. When you take so much time to answer or continually answer the same question year after year, it takes time. That time is efficiency that you lose and, you know, time is money, efficiency is money. And so, ultimately, we're taking additional time to answer some of those questions that we feel we should only have to provide once, not on an annual basis. And our board is very fiducial with their resources. And so they understand if there's a second opportunity or a second organization that can provide a similar program that we'll take a bid from them, but when we know there is a sole-source or that's the only one that can provide those types of services, there's no need to do so. [LR559]

SENATOR SCHILZ: All right. Thank you. [LR559]

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SENATOR CARLSON: Okay, any other questions? I think I missed part of what you said. Did the Corn Board provide some dollars or give some dollars to the university on irrigation studies, on the use of water? [LR559]

KELLY BRUNKHORST: That's correct. [LR559]

SENATOR CARLSON: You did. [LR559]

KELLY BRUNKHORST: Yep. [LR559]

SENATOR CARLSON: And that was for this year, so that's...you don't really have the results back. [LR559]

KELLY BRUNKHORST: No, and actually it's been about a three-year project that we've been working with Dr. Suat Irmak on. [LR559]

SENATOR CARLSON: Well, I think it's really important that you do that and all of you understand that. But if we have another year next year like this year, we have got to figure out a way that we can still get some decent production with the normal irrigation supply rather than...I can't imagine the amount of water that we pumped this summer. And if we have to do the same thing next year, it isn't good. [LR559]

KELLY BRUNKHORST: Yep. [LR559]

SENATOR CARLSON: So this is really, really important research and which in the end helps the bottom line in terms of profit per acre, so. [LR559]

KELLY BRUNKHORST: Exactly. [LR559]

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SENATOR CARLSON: Yeah, thank you. Any other questions? [LR559]

SENATOR BRASCH: I do have one. [LR559]

SENATOR CARLSON: Yes, Senator Brasch. [LR559]

SENATOR BRASCH: When...my understanding from the Chairman's question here is...water will recharge from last year. So, correct? I mean, it's part of the cycle, you need to go down to recharge. I've been talking to the university. So... [LR559]

KELLY BRUNKHORST: But the recharge rate may not be as fast as we hope. [LR559]

SENATOR BRASCH: So, even though it went down, it's not going to keep going down, as we speak, hopefully, our water supply, if we get some snow, it will recharge, it's not lost forever. [LR559]

KELLY BRUNKHORST: Yeah. [LR559]

SENATOR BRASCH: Correct? [LR559]

KELLY BRUNKHORST: Yeah. [LR559]

SENATOR BRASCH: Okay. So, with his question which is really important, I think, you know, is your role versus the private industry, all the...do you work with them, or is everybody in parallel universes? [LR559]

KELLY BRUNKHORST: You know, as specific on issue, I would say we are working a lot in parallel. [LR559]

SENATOR BRASCH: Okay. [LR559]

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KELLY BRUNKHORST: Various independent or private businesses have various research or programs or instruments or equipment that can tell us when the best time to apply water is. As the university perspective, we're taking all that in, in addition to what the university develops and being able to make it public. Some of that is kept private; that's their business. We want to make sure that all farmers have access to that information. [LR559]

SENATOR BRASCH: Good. Thank you. [LR559]

SENATOR CARLSON: Okay, any other questions? Senator Schilz. [LR559]

SENATOR SCHILZ: Thank you, Senator Carlson. Just as you talk about this technology and stuff, from what I've seen on-farm technology and things like that, moisture probes, and stuff like that, that world is just exploding right now. Are you...do you feel you have enough resources now to be able to provide the type of investment and the type of study that these need to create the on-farm opportunities for folks? [LR559]

KELLY BRUNKHORST: Good question. I think as a board as we look at what our investment is able to do, it's the opportunity to start a lot of different projects and get some of that initial data. What we are really asking the university is, once we get that initial data, let's take that and let's apply for federal grants or other grant opportunities where we can talk not only in thousands of dollars, not only hundreds of thousands of dollars, but let's talk millions of dollars where we can bring that money in and really take this thing wide-scale. And so, you know, as we look at it, we...ours is a partnership with the university, kind of initially getting started, let's take it to a bigger scale when we look at federal grants and other opportunities for funding. [LR559]

SENATOR SCHILZ: And how much do you believe that you can leverage these dollars to be able to do that? I mean, and that's the key to these things. [LR559]

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KELLY BRUNKHORST: Yep, yep. For instance the project that we've just been talking about mostly is the work that we were working with Dr. Suat Irmak on. That's about a \$120,000 project as you look over about a three-year period. I was just aware that he applied for and received over a million dollars in grants specifically related to some of this project, you know, and he's going to take it more broad. So if you look at \$120,000 investment, and you can receive a million dollars from a federal grant after you get some of this initial data, you know, it's really a slam dunk. [LR559]

SENATOR SCHILZ: Thank you. [LR559]

SENATOR CARLSON: Okay, any other questions? I think it's so important that a group like yours that provides dollars for research, it can be looked at as kind of a...for lack of a better term, it's an above-the-board approach to research. And if a specific company gives money to the university to study a certain thing or a certain hybrid or a certain seed, we know what kind of results they want. But it would seem like the dollars that you put forth we could hope that whatever the results are, they're not tainted one way or another; they're the truth, even though we may not like the truth sometimes. So, appreciate what you do. [LR559]

KELLY BRUNKHORST: Yep. Thank you. [LR559]

SENATOR CARLSON: Thank you. Next testifier. [LR559]

CARL SOUSEK: Senator Carlson, the name is Carl Sousek, C-a-r-l S-o-u-s-e-k. I'm from Prague in Saunders County and I'm currently serving as president of the Nebraska Corn Growers Association. I'll keep my comments brief because I think I'd probably just be echoing what has already been said. But I wanted to inform you that Nebraska Corn Growers Association is comprised of about 2,500 dues-paying members. And through the grass-roots resolution process we have developed policy that completely supports

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what we've been discussing today and that is the three main points about not being a state agency or finding a new way to work outside of the parameters that we work in presently. We'd like to see an elected board to give more credibility and...excuse me, accountability to those that pay the checkoff and also mandatory with the right of refund provision within this new concept. There's a lot of questions that have to be answered yet. We're willing to continue to work with other organizations and address their concerns in the state and, for instance, the right of refund, you know, would that alleviate the concerns of using checkoff money for lobbying purposes? That's a discussion that will have to take place within the associations and the organizations across the state to see if that's...can be solved, or if that can be overcome with that provision. So those are all things that we want to continue to work on. But again, I just wanted to offer myself up for questions if you'd like and to let you know that we...our grass-roots effort and the association supports these concepts to achieve greater efficiency within our checkoff system. With that I'll be happy to answer any questions you might have. [LR559]

SENATOR CARLSON: Okay, thank you, Carl. Any questions? Yes, Senator Karpisek. [LR559]

SENATOR KARPISEK: Thank you, Senator Carlson. Thank you, Mr. Sousek. Going back to the rebate, you said you'd like to see that, right? [LR559]

CARL SOUSEK: Yes. Yes. [LR559]

SENATOR KARPISEK: Okay. And you said that might solve some of the problems on the lobbying. Does that mean that...do some of the members see it as a problem that they can't use that money to lobby? [LR559]

CARL SOUSEK: I don't...it's hard to generalize at this point. [LR559]

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SENATOR KARPISEK: Sure, sure. [LR559]

CARL SOUSEK: Sure, there will be individuals that may have a problem with it. But by making it refundable gives the individual payer to...of the checkoff the recourse if they do not agree with the position that we take. I think it's never has been really much of a concern, because if you look back through history; and I shouldn't be, maybe someone from the checkoff board would be better to answer this question, but what I understand the amount of money that the checkoff has actually spent in lobbying is nearly miniscule. And you compare that to other states, Nebraska has never spent very much money when it comes to federal lobbying. So I believe it's...I understand it's a concern for some organizations, and...but for the general corn grower membership in Nebraska, it's never really been an issue just because of the very small amount that is used. And usually it's used on major issues that affects the entire state, for example, the recent farm bill debate or things of that nature. [LR559]

SENATOR KARPISEK: I guess I just hadn't put the lobbying together with the rebate, or the refund, and so thank you for building that bridge for me. I'm very happy that that money isn't used for lobbying. I guess to me that's a little bit of a concern that if that would be the way that we would go... [LR559]

CARL SOUSEK: Um-hum. [LR559]

SENATOR KARPISEK: ...but I'm glad...thank you for making that bridge and giving me your...the...I guess a little bit behind the scenes on that. [LR559]

CARL SOUSEK: Okay. [LR559]

SENATOR KARPISEK: So, thank you. Thanks for coming. [LR559]

CARL SOUSEK: You're welcome, you're welcome. [LR559]

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SENATOR CARLSON: Okay, any other questions? Senator Brasch. [LR559]

SENATOR BRASCH: Thank you, Chairman Carlson. And thank you for your testimony today. I do...I wonder, because when you're talking about breaking away, being your own...have you visited with other entities, organizations that are self-contained and not...and why I'm asking is example the State Fair. State Fair is managed and ruled by their boards, they're quasi state, but not; and they had years of going up and then as funds dwindled, you know, things happened, and are happening, they're going back up again. So, do you keep reserve? How are you going to ensure that...other than the checkoff dollars...that you're confident that will just keep you growing? Or you're going to come back again, or...I went to...the Federal Reserve did a presentation in Norfolk about different items. One of the things they talked about is China wanting to become self-contained in agriculture; that they're trying their very best to grow their own corn, their own soybeans, they have the resources now, they have the money. They would love to not be reliant on the rest of the world; Brazil could follow suit. Where they're falling down is they can't do cattle like we can do cattle. But, you know, so you're saying that from 25 years from now this program you can be independent or come back to the Legislature looking for a hand up. [LR559]

CARL SOUSEK: Senator Brasch, I appreciate the opportunity to address this. I think it's difficult for us to compare to anyone else within Nebraska. [LR559]

SENATOR BRASCH: I mean other models, you know. [LR559]

CARL SOUSEK: Right, other... [LR559]

SENATOR BRASCH: Did you look at other states, anything, or is this just a... [LR559]

CARL SOUSEK: Well, yes, we are comparing, and again, I think members of the Corn

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Board could probably do a better job, and Mr. Leonard has compiled a lot of that information. But as far as comparing us to other...others in the state, commodity groups, or commodity boards, this is the best way to explain it, different animal than...because of their relationships with other states, with their relationships with other organizations, it's very difficult to compare them to...for instance, you mentioned the State Fair. As far as your question of going down the road and having enough reserve, I think...and again, I'm on the association, I don't want to speak for the board, but my observations are that they've done a tremendous job of being forward-thinking and maintaining enough reserve, the old...giving themselves a little cushion, and we all have to do that, especially if we see that in the drought this year. They've been able to manage their farms from year to year, ups and downs, and I believe have done a tremendous job of that. I think, you know, 25 years from now I'm willing to take that kind of...I don't have a crystal ball to see, but I think if we stay on the track that we're on there's concern that we just get further bogged down within state government process and we're not, maybe, quite as quick on our feet, so to speak, that we could be independently. And yet, we need a relationship with the state; so finding that balance that...that cooperative partnership is the \$64,000 question today. And we believe we're on the right track. The drought, and Tim mentioned that we have come up with this plan. Sure there's some things that we need to work through yet, but I think it's the basis of where we need to go. And it's going to be the best for the corn industry as a whole for 25, 50 years down the road. [LR559]

SENATOR BRASCH: I'm not saying you're wrong, I'm just wondering why. And you're saying that state government is holding you back, basically; that there's more you could do if you did not have the constraints of state agency. That's what I'm hearing. [LR559]

CARL SOUSEK: I think the general thought is, that's a fair assessment. [LR559]

SENATOR BRASCH: Yes, okay, okay. [LR559]

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CARL SOUSEK: That's a fair assessment. But I want to reiterate that it needs to be an atmosphere of cooperation between the two. I mean as good government supports...supports the private industry and private industry supports the government. It needs to be a cooperative relationship. [LR559]

SENATOR BRASCH: Excellent. It sounds very, very good. [LR559]

SENATOR CARLSON: Okay, any other questions? Okay, Carl, thank you for your testimony. [LR559]

CARL SOUSEK: Thank you, Senator Carlson. [LR559]

SENATOR CARLSON: Okay. Next testifier. Going once. [LR559]

LORAN SCHMIT: (Inaudible) trust you. You might have gone to two, Senator. So I decided to speak up. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t and I speak here today on my own behalf and on behalf of the Association of Nebraska Ethanol Producers. I want to say at the outset, Senator Carlson, I appreciate you laying the cards on the table as you did, because any change in any kind of an operation is not met with universal applause. And so if the Legislature were to try to do...or to accomplish what the Corn Board has suggested, you're going to have to, of course, have your ducks lined up and your facts in order. And it sounds as if the Corn Board is working hard to do that. I want to commend the Corn Board for their activities and their performance and their production. You have to kind of want to ask yourself where they started, where they were a few years ago, and where they're going now. And they started out with a very small budget and there was a lot of debate at the time as to whether or not the checkoff should be a nonrefundable item. Because it was a brand new idea, and the Wheat Board had operated with a mandatory checkoff for many years, they felt comfortable, and only comfortable by having a mandatory checkoff. They were concerned that if there were a refund that there might be such a variance in

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the money collected that they would not be able to budget. So that was the way the Legislature enacted it. It's been 20-some years since the Wheat Board had been enacted before the Corn Board was created. And so they operated very successfully and the Corn Board and the growers at that time preferred the nonrefundable provision. There was a refund in the 1986 law that created the EPIC Fund. There's a one and a half cent levy on all the corn, wheat, and sorghum produced for a year and a half and there was a provision that one cent of that could be refunded. And you might want to check with Todd, but I believe that only about 20 percent of that was refunded. And I think maybe some of those refunds came from the larger growers which kind of gives me a little bit of concern. You know, if you were going to get back 50 bucks, no big deal, but if you're going to get back four or five thousand it's a totally different situation. And so I think we have to be very certain that we know what we're asking for, because we might get it and it might not work. But I'm sure the Corn Board has done some research on that and they're not concerned. I agree with what Kelly has said about the...it's the nature of government to be able to have bureaucracy and it's the nature of government and it's not all bad, that's (inaudible) government, has supervision and kind of stoops once in awhile. But I've had comments many times from various commodity board members and other agencies where the Performance Audit Committee or the audit group chases a \$6 parking lot refund and will never look at a multimillion dollar expenditure. It's easy...you know, we can all understand a few hundred dollars or a few thousand dollars, but when you get up into seven and eight figures, then it's beyond our capacity to understand that. So if you're going to do a review, why it's easier to go over there and make Kelly dig up his receipts for the meals for \$12 and so forth rather than to go out and check on the purchase of a multimillion dollar piece of equipment. And not suggesting that the committee can't understand or perform the greater task, but it's the nature of the institution. I think that the Corn Board and the other commodity boards have matured. Started out, there wasn't any manual when the Corn Board was created. They had to sit down and write...they knew what the mandate was for the Legislature that was broad--to improve the economic conditions of the corn producer. Well, that's a pretty broad direction. And so one of the things that was made clear to the board was

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that the Legislature did not expect every one of their ideas to get a financial return. If you could do that, we would go to the banks and borrow the money and do it ourselves. And I think that we have had a lot of success, and I suppose there's been some failures, but I don't fault the agencies for that because when, for example, the money they spent on ethanol (inaudible), there wasn't hardly any ethanol industry in 1978, yet the Corn Board became very involved and very supportive. And I'm sure that as time goes by we're going to see...we've seen great progress in many areas. We're going to see ideas that the Corn Board will want to promote and develop that are today not even thought of. And maybe not...might not meet the approval of the legislative body because the Legislature is becoming more and more urban all the time. And I think there might be some advantage if the Corn Board were independent. I know that, as Senator Carlson has said, there's going to be some blood in the water, on the floor, I suppose, and so it be legislative blood or some otherwise, but it isn't all bad. And I think that most of all one of the things that was suggested here was the ability to work together with other commodity boards and agencies. And I know that past experience has told me that if I came to the Corn Board with a proposal to spend \$100,000 and the Corn Board would tear it apart and patch it up and say we don't like this part, so I fix it up and go to the Wheat Board and say, well, I want that, and they'd look at it, well, looks pretty good. So it pays to have communication and cooperation between the various commodity boards. They all have the same interest and work for the same goal and the same...many times the same people, a lot of the corn producers, wheat growers, and sorghum growers, livestock producers, and so it would be a benefit. As I said, there's an old saying, you know, don't mess with something that's working. On the other hand it doesn't mean that you can't improve something that is working. So with that, I say thank you, Mr. Chairman, and again, thanks to the Corn Board for the job that they're doing. [LR559]

SENATOR CARLSON: Okay. Thank you, Loran. Any questions? Okay, thank you for your testimony. Curt, welcome. [LR559]

CURT FRIESEN: Good afternoon, Senator Carlson, committee. I'm Curt Friesen, C-u-r-t

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F-r-i-e-s-e-n, and I'm currently the District 3 director for the Nebraska Corn Checkoff Board. I'm also, obviously, a member of the Corn Growers. I farm near Henderson with my wife, a small family operation, and I've watched the checkoff dollars at work for many years. Senator Brasch had some questions on efficiencies and why we would want to get out of state government. And I guess one of our visions is that down the road we could colocate in office space with, for instance, the Wheat Growers, the Cattlemen, the Corn Growers, if we could all be under one roof to where we could talk to each other on a daily basis, I think we would even, you know, improve where we get along now. And you take Nebraska is kind of a special place, we've got this synergy going with ethanol, cattle, and corn. And it has created an economy here second to none in the nation, I think. But to get these people all under one roof...and I'll be the, you know, between cattle and corn there's sometimes been some friction. But between Nebraska cattlemen and the corn growers, I think we've gotten along better than, probably, nationwide anybody has. We do recognize that synergy. We need those markets. Also, livestock is still our largest market for corn. And we have done a lot to promote corn usage in...through livestock and value-added. So part of that...being able to colocate, work together, you know, we could eliminate manpower, receptionist, things like that. If we could all be in one building; we're all working for a common good of betterment of agriculture in Nebraska. So to me it would be a lot simpler if we could be located together. Any other questions I'd be glad to answer those. [LR559]

SENATOR CARLSON: (Exhibit 4) Okay, thank you, Curt. Any questions? Good, thank you for your testimony. Anyone else wishing to testify? Again going once, twice. Okay with that, then I do have a letter here that...from Nebraska Wheat Growers Association and we want to enter that as part of the record from Dayton Christensen, so that will go into the record on this hearing. And with that we'll conclude the hearing on LR559. It's, according to the clock back there, it's about 22 minutes until 3:00, so let's take about a 7 minute break. We'll go into the next interim hearing and so let's take about 7 minutes, some of us need it. (Laughter) (See also Exhibit 5.) [LR559]

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BREAK

SENATOR CARLSON: Take your seats again and we'll get started here. Okay, we'll open the hearing on LR557. We're going to do this a little bit differently than the previous one. And after our first testifier, we're going to put the lights on for 5 minutes. You know, this is the 75th year anniversary of the Unicameral. And we have a big dinner this evening of all former and present senators that have served in the Unicameral. I've got...I agreed to put on a tux, grudgingly, and I've got to go home and get that on and get back here. So we want to be done by 4:00 if we can in this hearing, if not before, so. Okay, LR557, what we want to do here is examine the progress in developing blender pump infrastructure for ethanol. And the purpose is to respond to recent studies which indicate that the optimal fuel efficiency comparable to regular gasoline may be at ethanol blends of 30 percent to 40 percent. We may have differences of opinion on that. That's part of why we're getting together. The flex-fuel pump gives buyers many options. And LR557 provides a forum for receiving an update regarding the availability of retail locations to serve the blended fuel market, to better understand obstacles to more availability, and to hear opinions on the adequacy of existing state and federal incentives for stimulating blender pump use by the public. Wednesday of this week I was at an energy meeting in Kearney and Todd Sneller made a presentation there. And I thought it was very, very good, very interesting and Rick has talked to Todd and asked him to come over and not only testify today, but to give a little bit of a summary of the kind of thing that he talked about in Kearney. So I'm going to ask the first testifier to be Todd Sneller. We'll not pay any attention to the light for you, but we've asked you to summarize what you presented in Kearney, and so welcome.

[LR557]

TODD SNELLER: (Exhibit 1) Thank you, Senator Carlson. My name is Todd, T-o-d-d, Sneller, S-n-e-l-l-e-r, and I'm here today representing the Nebraska Ethanol Board. I've taken about a 40-minute presentation, Rick said cut this down to 7 or 8 minutes if you can. So I'm going to try to talk about as fast as Pat Ptacek here if I can get through this.

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One of the slides that I showed at the presentation on Wednesday was a quote from a Reuters reporter who had opined the following headline in a publication on September 6 and it basically said: U.S. bankers say, love it or hate it, ethanol is here to stay. It went on to point out that any sudden change in the ethanol requirement in the renewable fuel standard would have wide-ranging consequences because ethanol is already an integral part of agriculture, energy, and rural banking industries according to farm bankers. And I think that's important from the standpoint that we have now seen the concept of ethanol become an economic reality in the marketplace today. Ethanol comprises about 10 percent of the gasoline pool in the United States today. And there's a number of very positive consequences that comes from using ethanol. And I'd like to briefly outline a few of those because I think they get to the point of why having blender pumps, which offer additional fuel options for consumers, make good sense and why we should support that initiative in Nebraska. One thing that many consumers labor under when they look at gasoline is they view it as a single component when, in fact, it's a composition of chemicals that changes both seasonally and geographically and according to demand factors all over the country almost every day of the year based on local standards, federal standards, the season, a whole host of different factors. Among those chemicals that are used primarily for increasing octane in gasoline are components like benzene, toluene and xylene. These are pretty good octane enhancers, but they have a number of consequences. They're very expensive compared to ethanol, for example. They're not as high in octane compared to ethanol. And probably at most concern is that they are toxic; and in the case of benzene, carcinogenic. And they are difficult to refine in terms of the volume of yield one gets when refining a barrel of crude oil if you're trying to optimize the yield of gasoline. By contrast, ethanol is a very high octane fuel, about 114 octane. It's renewable molecule; it's used not only in fuel; it's used in beverages, nutritional products, pharmaceutical products, and a variety of food applications as well. Ethanol is an extraordinarily good octane enhancer; that's been long recognized. It's a single molecule; it's very predictable; it's clean burning; it combusts well because it's a higher octane; and it's less expensive than competing octane sources. When we use ethanol in

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the refinery, or when we refine or contemplates using ethanol as an octane enhancer, they're taking a look at what they can do with the refined products. And so in anticipation that ethanol is in adequate supply in the marketplace, what we're seeing now is a trend toward lower octane gasolines with the supposition and the lower cost ethanol component will be added as the octane source to increase that to appropriate octane levels when that fuel is sold at retail. The benefit to the consumer of that trend has been enormous. While it's not always recognized at the pump, we do see in Nebraska, for example, the 89 octane E10 blends that you're familiar with typically selling for about a dime a gallon below 87 octane unleaded gasoline. So the consumer gets a higher octane gasoline at a lower price. That trend is fairly predictable. We think we will see it continue. And one of the indicators of that is today that I had asked for our pricing service that takes a look at terminal prices in Omaha, Lincoln, and North Platte to give us kind of a composite view of what the price of ethanol is in Nebraska today compared to the price of some of the competing products of gasoline. By the time I gave the presentation on Wednesday, this was based on data I gathered Tuesday, the number was obsolete, and even more so yesterday. I quoted a number of 85 cents a gallon difference between the price of ethanol and unleaded gasoline when I made the presentation on Wednesday. By Thursday morning that differential was a dollar difference with gasoline being lower. So again, you can see the opportunity here for integrating a variety of blends beyond E10 into these blender pumps, whether they be E30 or E50 or E85, and if any of that price savings is passed along, the consumer is going to get a higher octane, cleaner burning fuel, at a significantly lower cost. But perhaps more importantly, we'll have the choice to choose whichever of those blends they want to put in their automobile; have a choice to save money; have a choice to support a Nebraska product, more or less depending on the percentage of ethanol they use. So having ethanol in the marketplace has saved an enormous amount of money. It's also accomplished a number of other objectives as we've seen in the state's economy. A lot of this presentation on Wednesday was based on that. A full copy of that presentation is on record. I'm not going to get too much into economic impacts today, other than what this means to the consumer and why this concept of having blender

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pumps and more choices at the fueling sites is important from a consumer perspective. In addition to that, we continue to see a number of benefits to diluting the amount of these other additives in gasoline with ethanol. It makes a cleaner burning fuel. Many cities around the country are still using ethanol blends as a means of reducing carbon monoxide and other pollutants, part of their pollution mitigation programs. And so it's become a very flexible alternative to the gasoline in the past by enhancing that with the ethanol we see today. But getting to the point of going toward these higher blends, it represents choice. There's no mandate to do that. It's an option to do that. There are incentives provided by the state government in a number of places around the country. The Nebraska Corn Board program today is really only the state incentive that we have today. We've asked legislators in the past to look at everything from tax credits to different types of incentives to try and encourage more investment and try and encourage more purchase of these flex-fuel vehicles. But the fact is, more of these flex-fuel vehicles are occurring in the marketplace anyway. More people are choosing to buy those. We now have over 120,000 flex-fuel vehicles in the state today. That number increases every month where we get the new figures from the Nebraska Department of Motor Vehicles. So we're seeing more and more of these vehicles on the road. But infrastructure to serve these vehicles has not kept pace. And that's one of the reasons we believe that the Nebraska Corn Board program is a good program. We appreciate the fact that you've given them the opportunity to provide some additional resources to that area. We think that the private sector is gradually responding to that. There are still a number of challenges that will continue to impede that progress. The American Petroleum Institute, for example, continues to file lawsuits to try to prevent E15 from entering the marketplace. E15 has been used for many, many years. We know it can be used safely. That's clearly an option to put it in the marketplace. There's no requirement to use it. But it is an option that consumers should have access to. And with the blender pumps, they would have easier access. The choice of using E85, the flexible fuel, appropriate fuel, flexible fuel vehicle, appropriate fuel which contains the highest percentage of ethanol today is perhaps as economic as it's ever been because of this price differential. So again, having these blender pumps gives the consumer the option

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of pulling up and using gasoline or 10 percent ethanol in gasoline or 15 percent or 85 percent. So again, having access to the infrastructure, having access to these choices at the pump, something we think should be encouraged and we appreciate the fact that the Corn Board has decided to commit some resources to that. We also appreciate the partnership because...that the Ethanol Board has with the Corn Board and other organizations because this is a difficult challenge. And just one anecdote probably illustrates this. A guy like Loran Schmit would call me, for example, and say, Todd, call the Bellwood Co-op and talk to Al down there. He's kind of interested in this idea of putting in a blender pump, and it's a fairly sophisticated process. You've got to know what tanks you currently have underground. You have to know what your dispenser options look like. You have to understand the economics. You have to make sure that you're having a conversation with the Fire Marshal. You need know if you have to talk to the Department of Environmental Quality. Do Underwriters Laboratory have the appropriate ratings on the equipment you're going to use? Al's a little confused by all this, understandably, because there are a lot of technical issues. So we've tried to make sure that we are resourcing this properly with some Ethanol Board funds to provide technical consultants that are well-versed in putting these dispensers in. So I don't have to know all this either. I can have our technical consultant call Al and answer these questions. We're also able to get some great help from the Nebraska Department of Motor Vehicles which allows us to access the database of flexible-fuel vehicle owners. Unfortunately, despite the fact that we have about 120,000 of these flexible-fuel vehicles on the road in Nebraska, and over 10 million on the roads in the United States, General Motors and Chrysler both estimate that between somewhere around 65 to 90 percent of the people who own and operate those vehicles are not aware of the fact that they are driving flexible-fuel vehicle. They're not aware of the fact that they have additional fuel options. So unless we match up an awareness of that fact, an awareness that these consumers have additional options at the pump and make them understand where these fueling sites are located, we never put the hand in the glove. We've got to make that connection. That's an important part of the outreach effort. And so providing the technical support that matches up with the choice by a fuel marketer to engage in

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installing a blender pump is an important part of this, but also getting to the consumers and making sure that we drive this traffic towards those installations so that we don't have a stranded asset. We think that's vitally important to make sure that through the road signage that we are able to get established with the Department of Roads indicating where these E85 pumps are located; Web sites that are operated by the Nebraska Ethanol Board, Nebraska Corn Board, a number of national organizations, phone applications, cell phone applications, and others that will quickly steer a motorist towards these locations; and then these point-of-sale promotions that create awareness about the fact that this is a competitive fuel option are all good strategies for making this blender pump program more effective. All of that's required in order to overcome some of the inertia and some of the obstacles that continue to impede this progress. But it's important in the grand scheme of things that as the second largest ethanol producing state, we really, I think, have responsibility to try and use more of this fuel. We're going to continue to have to export the majority of it just because we don't have many gallons used in the state. But the fact is, we can do better than we've been doing and we ought to encourage that because from a consumer's standpoint, it does enhance choice. The fuel economy, obviously, from a price standpoint is more attractive than perhaps it's ever been today at the pricing. And the fact that we've got a lot of vehicles out there that enable consumers to make additional choices than they've had in the past is something, I think, is part of the state's policy to encourage support of an industry that makes a significant economic contribution, but also reinforces consumer choice and the opportunity to save some fuel at the pump, save some money at the pump. So, Senator, I'd be glad to respond to any questions. A great deal more information in this presentation and I just don't want to belabor the point, but a copy of that is available here and I'd certainly be glad to respond to any questions. [LR557]

SENATOR CARLSON: Okay, thank you for your testimony. Do we have any questions by the committee? Now, I don't know anything about this, but it sounds like where you...if you've got a blended, a blender, you got to be taking from two tanks, the ethanol and the gasoline, at the same time. So that does complicate matters for the retailer,

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doesn't it? I mean, it's not enough just to put the blender pump on the pump, so how difficult is that? [LR557]

TODD SNELLER: The software, the equipment, all of that is readily available. So it really depends from the starting point...if you were going to make a decision to go in and put in a brand new fueling site and put in new underground tankage, you would decide to do any number of things depending on how much money you wanted to spend on tankage, whether you wanted two or three tanks, how large those tanks were, what those tanks were going to contain. Probably the more frequent case we see is a retrofit to an existing station. It's been said that somewhere between every 7 to 10 years a lot of the equipment tends to be changed out, dispensers tend to be changed out, but the tanks tend to remain underground. And so as long as these are qualifying tanks that meet different regulatory requirements and their lifetime is still good, there's typically an evaluation of what is underground. And that will dictate then really the practical options for what's aboveground. And so then software choices are made; dispenser choices are made. And a fuel retailer may decide to offer three products, or depending on the sophistication of the dispensers and software, they may have a total of five different products. And I think the choice there is simply one of economics. Does it make good sense to offer a wider, broader spectrum of products? Does it make sense to do that in Bellwood, Nebraska, or Omaha, Nebraska? So some of these choices are going to really be dictated about what the customer base looks like, what the demand is from that customer base. And that's where we try to help the vendor, excuse me, help the purveyor of that station make an informed decision about, from an economic standpoint, what really makes good sense; what choices fit best in that market; and which choices are going to be easiest for him in terms of capital recovery from that investment.

[LR557]

SENATOR CARLSON: So the typical retailer that's been operating a business for 20 years and maybe no change in tanks over that 20 years, for that person it would be easy for me to think they might say this is too complicated. But for that person, whether

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there's been no change in tanks in 20 years, can that person, retailer decide I'm going to put on blender pump here and it can be taken care of with software and I don't have to be any smarter, and I don't have to make an additional investment except for the blender? [LR557]

TODD SNELLER: The first step in that process is going to be to evaluate what is underground. If those tanks are fiberglass tanks, when were they installed and what are they approved for? Are they stainless steel tanks, if so? Are they steel tanks, if so? What have they been approved for? Basically, that's where the liability exists. You want to make sure that the tanks that are in there are suitable for holding high concentrations of ethanol, if that's going to be one of the tanks. In all likelihood, that will be one of the tanks. So it's critically important to understand is that a suitable tank for that fuel? And if that's the case, then what happens aboveground is relatively simple. If that's not the case, then you've got to make some other choices. Do you want to replace that? Do you want to use lesser blends? But in each case this is an individualized analysis about what's there, what are the suitable options aboveground based on what's below ground. And again, that's where this technical assistance comes in, because these are people who have done this a thousand times across the country in different locations. And they understand what the options are aboveground, what the costs are for those options, but really it gets to the point of what's underground as a starting point there so you know what the economics are for making sure you have a complying system aboveground. [LR557]

SENATOR CARLSON: Okay. One other question for me. I've got a vehicle that right on the gas cap says it will take E85. If it will take E85, it will take E30. [LR557]

TODD SNELLER: Correct. [LR557]

SENATOR CARLSON: It will take E40. [LR557]

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TODD SNELLER: It's a flexible-fuel vehicle and as its name implies, put in there whatever you want. [LR557]

SENATOR CARLSON: It doesn't say flexible fuel, but it says E85, that means it's flexible. [LR557]

TODD SNELLER: It does. [LR557]

SENATOR CARLSON: Yeah, okay, all right. Any other questions? Okay, Todd, thank you for coming. [LR557]

TODD SNELLER: Thanks, Senator. [LR557]

SENATOR CARLSON: And now we'll invite other testifiers to come forward and Barb will operate the five-minute light. [LR557]

CURT FRIESEN: (Exhibits 2 and 3) Thank you, Senator Carlson and members of the committee, and guests today, for your time. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I'm a corn farmer. I'm vice chair and past market development chair of the Nebraska Corn Board from Henderson. Over the last couple of years, the number of flex-fuel vehicles in Nebraska has increased, and there are currently over 140,000 vehicles. One in ten Nebraskans drives a flex-fuel vehicle and many don't even know it. Along with the increasing number of flex-fuel vehicles, the number of flex-fuel pumps is also increasing. There are nearly 20 locations in Nebraska that offer multiple ethanol blends such as E20, E30, E85. In addition, there are over 55 locations that offer E85. For the past four years, the Corn Board has had a blender pump grant in place. Each year the grant program and blender pump infrastructure in Nebraska has been evaluated. Three years ago the grant program was \$5,000 per retail location. Last year the board changed the grant program to \$5,000 per blender pump with the maximum of \$20,000 per retail location. The current program is \$30,000 for the first blender pump

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and installation, and \$10,000 for a second blender pump with the maximum of \$40,000 per retail location. Each state has their own ethanol infrastructure program, but the final goal is the same, to increase ethanol infrastructure in the states. The chart that each of you received at the beginning shows a comparison of the blender pump grant program in several states. With the checkoff increase this year, the Nebraska Corn Board has a goal to double the number of retail locations in Nebraska that have blender pumps. This fiscal year, the board set aside \$750,000 to further develop ethanol infrastructure in Nebraska. Within the first three weeks of the beginning the fiscal year, over 60 percent of the grant funds were allocated for blender pumps, which is around \$480,000. This includes locations in Fremont, Blair, Bellevue, York, and other large cities in Nebraska where the majority of the flex-fuel vehicles are located. After blender pumps are installed and up and running, we send out a press release that a new blender pump is open along with the location, advertise in the local paper or on the radio so consumers know they can purchase higher blends in the area. We work with the retailer on ethanol blended fuel buy-down to catch the flex-fuel vehicle owner's attention about the new blender pump. We provide signage to the retailer and use social media to help spread the word about ethanol and blender pumps. We're also using that opportunity to educate consumers about ethanol, using ethanol fuel blends and flex-fuel vehicles. Recently we held promotions during the State Fair and Husker Harvest Days. There were staff members and board members present during these promotions to educate consumers about ethanol and flex-fuel vehicles. Many flex-fuel vehicle owners don't realize they're driving flex-fuel vehicles, and these point-of-sale promotions are a great way to educate consumers that are filling up their cars. We also play a very aggressive role in promoting ethanol through our American Ethanol partnership via the National Corn Growers Association with NASCAR. Last year NASCAR began using E15 in its racing fuel and has continued the use into this year. What better way to promote ethanol than through 75 million fans of NASCAR? The role of the Corn Board is to provide resources to retailers that want to install blender pumps. We realize the additional costs to install blender pumps. If there are any technical questions, the retailer is put in contact with the proper person including the equipment provider who handles the

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dispenser, underground storage tanks, line work, and more. It is not our responsibility to be experts in the equipment, installation, or anything associated with the installation and setup of the blender pumps. We leave that for the experts who know who to contact. Our efforts don't stop there. We are also working with several retailers to offer E15 to 2001 and newer cars, light-duty trucks, and SUVs. Currently, we do not have any retailers that are offering E15 for 2001 and newer vehicles, but with the new winter blendstocks that retailers began using on September 15, any retailer can offer this blend. Nebraska is unique in our interrelationship between corn, ethanol, distillers grains, livestock. This symbolic relationship can't be any better situated than in Nebraska. Ethanol production only uses the starch portion of the kernel. The remainder of the kernel which contains protein and fat is used as livestock feed as distillers grains. As you've heard, our efforts at the Nebraska Corn Board are not lacking. Our ultimate goal is to work with retailers to install blender pumps and offer E15 and educate consumers about flex-fuel vehicles and ethanol-blended fuels. We're an advocate for 23,000 corn farmers in Nebraska and ethanol fuel and consumer education. Today we had a blender pump promotion in Omaha, two of them running simultaneously. We partnered with Iowa Corn and we had long lines. They needed traffic control and they were offering E85 for 85 cents. And, obviously, the interest was very well. [LR557]

SENATOR CARLSON: Pretty high. [LR557]

CURT FRIESEN: If you have any other questions, I'd be glad to answer them. [LR557]

SENATOR CARLSON: Okay, thank you, Curt. Do we have any questions? Some of this is all news to me that research is perhaps showing that most efficiency is around a blend of 30 to 40. Now NASCAR is using E15. Why wouldn't it use 30 to 40 if that's where the efficiency is? [LR557]

CURT FRIESEN: I think there is talk of increasing that blend down the road. But they chose to go with E15 because they had to target some number. With their

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high-performance engines, I think they matched engines to the fuel they're using more than the other way around. [LR557]

SENATOR CARLSON: Okay. Any other questions? All right, Curt, thank you for your testimony. [LR557]

CURT FRIESEN: Thank you. [LR557]

SENATOR CARLSON: Welcome again, Pat. [LR557]

PAT PTACEK: (Exhibit 4) Thank you, Chairman Carlson, members of the committee. My name is Pat Ptacek, that's P-a-t P-t-a-c-e-k, speaking today on behalf of the Nebraska Association of Ethanol Producers to address interim study resolution, LR557, which seeks to examine the progress of the creation of blender pump infrastructure in Nebraska and programs to utilize...utilized in other states to aid retail development of ethanol blender pumps. I want to make clear the association supports the work of the Nebraska Corn Board in conjunction with the Nebraska Ethanol Board to promote Nebraska agriculture and the development of alternative uses of corn in the promotion of alternative fuels. After many years with one of the lowest assessed checkoff rates, recent passage of LB1057 increased the corn excise tax to five-tenths cents per bushel from twenty-five hundredths and the Corn Board's annual revenue, in a good year, approximately from \$3.75 million to \$7 million annually. ANEEP supported LB1057 in part to encourage that the Corn Board dedicate a substantial portion of any increased checkoff funding to aggressively promote and boost incentives to install blender pumps across the state. I don't need to remind the members of this committee that ethanol production has had a profound effect on the current and sustained commodity prices farmers are enjoying today. In a little over 10 years, ethanol production has grown to consume more than 30 percent of the annual corn harvest, increasing farm gate income, adding thousands of well-paid jobs to rural communities, and producing a valuable feed source for our thriving livestock industry. The U.S. ethanol industry, even

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in light of the current drought, is capable of meeting production requirements under the federal Renewable Fuel Standards. However, the ethanol industry is also greatly dependent on the major oil companies for the marketing, blending, and distribution of their product. ANEEP firmly believes that with the aggressive installation of ethanol fuel blender pumps at retail locations across the state the Nebraska ethanol industry can become much more directly involved in the distribution and marketing of their product. More direct marketing and distribution of ethanol will provide Nebraska consumers with the blend of their choice of a locally produced fuel source at competitive or below national retail prices. You've already heard some of the details of the stepped-up program of the Corn Board, so I won't need to go into that. However, I don't know if it was mentioned, but in addition to that \$750,000, there's another \$250,000 in matching funds that are available. And we are...we have several ANEEP members that have expressed an interest in working with gasoline retailers in their immediate vicinity to install blender pumps, develop mutual partnerships, and provide financial assistance to upgrade fueling facilities. By working together, area retailers and ethanol plants can work together and seek to leverage a portion of the Corn Board matching grant to install blender pumps near the communities they serve while opening direct markets for locally produced biofuel. ANEEP supports the significant and we hope continued commitment by the Nebraska Corn Board to our corn farmers, ethanol producers and consumers alike. As ANEEP testified before this committee last session during the hearings on LB1057, at that time North Dakota had 170 blender pumps, the most in the nation. The rapid installation was accomplished through a public-private partnership with a state and corn grower funded biofuel blender pump program which provides retailers with one-time funding to help alleviate the costs of installing blender pumps. Making E15 available to consumers is in step with North Dakota's successful biofuels blender program, and which helps retailers offer more renewable fuels. Late last year South Dakota announced that they were making \$950,000 in grants available to help pay for the installation of ethanol blender pumps and associated infrastructure at retail gas stations in South Dakota. Funding for that grant program was made possible by partnerships between South Dakota ethanol producers and the state of South Dakota.

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The Florida Legislature this spring passed legislation that will modernize their renewable fuel standards by providing incentives for blender pump technology for Florida retail stations which will offer everything from unblended gasoline to blended gasoline with incremental blends of E15, E30, E45, and E85. Florida House Bill 7117 provides tax incentives, estimated as much as \$44 million over the next four years, for businesses to develop, distribute, and sell cost-effective renewable fuels in Florida and develop new sources of renewable energy. There are now 61 blender pumps in Florida; by contrast there are only 17 blender pumps in the state of Nebraska. In order to sustain the initial commitment made for the 2012 blender pump installation initiative, ANEEP believes that the Corn Board must and is cooperating more closely and work with organizations to assist identifying prospective blender fueling sites. The Nebraska Ethanol Board has already developed an extensive fueling infrastructure guide, E85 and blender pumps, and has hosted numerous workshops for fuel retailers, equipment vendors, and others during the initial efforts to attract interest in ethanol infrastructure. There are few recommendations that we would like to make as this...that's continued commitment by the Corn Board. We think there needs to be continued support with state regulatory agencies. Partners can work with the Fire Marshal, Weights and Measures staff, Revenue, Department of Environmental Quality, and other officials with local jurisdiction to have a...clear a pathway that eliminates impediments thereby reducing time and cost to...in the infrastructure development. Other partners can assist in technical support engaging grant writers and tech support and help interested marketers evaluate the potential for investment in fueling sites. The Ethanol Board can provide expertise available to the private sector. Fuel retailers are very busy people and any program intended to encourage investment in fueling infrastructure must be designed to be easy and to demonstrate a solid business case. And we're concerned that more checkoff dollars will be directed to marketing and promotion. Market development and support will be essential, especially in the introduction availability of E15 becomes more of a reality. The Ethanol Board is created for this purpose and consumers must be able to readily find the new ethanol fuel blends making their locations visible via Web sites, will address POS signage, On Star directories, and other means are an important part of

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sustaining the effort and the investment. The board has extensive experience and relationships that allow them to facilitate new production. When the Legislature authorized the Corn Board in 1978, average yields were far below those of today. Even so, surplus production kept prices to farmers below the cost of production. Today, we are producing twice as much corn annually as in 1978 and we have increased consumption to match production. We predict the corn production will continue to increase and that the Nebraska Corn Board will continue to play significant role in marketing that production. Those are my comments today. If I can help answer any questions, I will make myself available. [LR557]

SENATOR CARLSON: Okay. Thank you, Pat. Questions? And your statement there about increased production, today we're producing twice as much and we hope that that continues and we hope we don't have another year next year of lack of moisture like we had this year. [LR557]

PAT PTACEK: Absolutely, absolutely. [LR557]

SENATOR CARLSON: Because that really is the key to it. So thank you for your testimony. [LR557]

PAT PTACEK: Thank you. [LR557]

SENATOR CARLSON: Next. Going once. Welcome. [LR557]

JOHN DILSAVER: Good afternoon. I'm John Dilsaver, D-i-l-s-a-v-e-r, it's J-o-h-n; Omaha, Nebraska; represent Rite Way Oil and Gas Company in Omaha, Nebraska. We're a wholesaler in the state of Nebraska; mainly branded Shell, but we supply from eastern Nebraska to Paxton, Nebraska, we have dealers. We also have transportation so we're...we currently, as a retailer, we supply 40 locations. Willing to answer any questions you guys may have as to why we haven't put in blender dispensers yet. We're

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one of those retailers who has not. We know the resources are available. We've talked about it. It's just an economics issue. Currently...we mentioned there's 120,000 flex-fuel vehicles in the state of Nebraska. That's roughly less than...right at 5 percent of the total vehicles that are being driven. And so as a marketer, you're looking at, you know, how much resources can you put to chase 5 percent of a particular market. Currently, the price differential, you know, it does fluctuate. Currently, ethanol...you know, with the price of corn, there is less of a price differential if you look at E85 around town. Usually you're seeing 60 to 70 cents difference on the street, you know, the signs on the street advertising it. I think you're seeing that's compressed right now. In our business we kind of feel that 60 cents is sort of the spot where the consumer with the reduction in fuel mileage is where they'll pick up the E85 nozzle. So I think that's shrunk a little bit right now with the current corn price. The differential between E10 and straight no-lead at this time, as was testified, is currently about 10 cents a gallon at the retail level. Today my price to buy from Shell in Omaha and Lincoln both supports that. I'm paying 10 cents a gallon more to buy clear, no-lead, without any ethanol in it from Shell. So we're just, you know, that's the price differential of my cost and that's the price differential that's being charged to the consumer. At one time the state had a tax incentive where the gasohol tax was lower in Nebraska. That was eliminated and I believe that was pushed over to the ethanol producers, which I think is about ready to sunset, the EPIC Fund, so. I mean that was an advantage. We do have retail locations in Iowa. Iowa continues to support ethanol with a differential of 2 cents a gallon less on 10 percent blend of ethanol. There's also an additional incentive if you've got some E85 where you can sort of bump that up to more of an incentive. Any incentives on the tax difference does get pushed to the consumer, you know, it's a low margin business; it's competitive. Retailers are compelled to pass any savings in tax, you know, on to the consumer in the form of the retail price. We do have some concerns about the UL Ratings, E15, putting the product that, you know, the current blender dispensers do have the proper UL Ratings. But we've got a concern that if a consumer...if we've got a blender dispenser and a consumer pulls up, you know, we've got an overnight clerk that needs to pay attention, is that car, you know, a 2000 car or a 2001 car, should he be at that dispenser fueling?

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We're concerned about the product liability of that. Typically the cost of a dispenser is about \$35,000 which is currently the incentive. Some things that we need to consider in addition to that below the ground that we talked about. I mean, above the ground would probably be a new price sign; it's important that we post that we've got flex-fuel vehicles...a flex-fuel product to sell. That can run probably \$5,000 to modify our price signs to show that. Pump installation, just to pull our old pump off and put a new one on is probably about \$2,000. You really need to put new flex connectors to compensate for the higher ethanol concentration in the fuel; probably about \$500 a line, so about \$1,500 a dispenser. And you probably really want to put a new submersible on the pump that pulls the product out of the tank which can run about \$1,000 a tank. The major oil companies give us a little push back once we get to the higher blends, anything over E10, so we've got a little...we've got to sort of work that out with them, sometimes they don't want that underneath the canopy, so. If there's any questions, I'd certainly be happy to field any of those. [LR557]

SENATOR CARLSON: Okay, John, thank you for your testimony. Do we have questions? I've got a couple of questions. [LR557]

JOHN DILSAVER: Sure. [LR557]

SENATOR CARLSON: We got the figure of 120,000 flex-vehicle cars in the state and that represents 5 percent of the vehicles? [LR557]

JOHN DILSAVER: I believe there is about 2.2 million vehicles in the state. [LR557]

SENATOR CARLSON: So we've got more vehicles than we have people. [LR557]

JOHN DILSAVER: That's probably true. [LR557]

SENATOR CARLSON: We do; and I'm not arguing. But that's... [LR557]

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JOHN DILSAVER: Right. I mean,... [LR557]

SENATOR CARLSON: I guess that's a sign of prosperity. That's a lot of vehicles across the state for 1.8 million people. [LR557]

JOHN DILSAVER: Right. [LR557]

SENATOR CARLSON: If that's what it is, that's what it is. [LR557]

JOHN DILSAVER: And it's...sure. [LR557]

SENATOR CARLSON: Do you, at your outlets, offer E85? [LR557]

JOHN DILSAVER: No, we do not. [LR557]

SENATOR CARLSON: Okay, so you're strictly the 10 percent. [LR557]

JOHN DILSAVER: Correct. [LR557]

SENATOR CARLSON: And the other that you sell as having no ethanol in it, does it have any? [LR557]

JOHN DILSAVER: No. Currently we offer an 89 octane which is certainly the E10. A typical configuration would be...our biggest tank...75 percent of what we sell, currently, is E10; and Nebraska has always done that. I mean it's always been the lower-priced product. Twenty percent is what we call no-lead, the 87 octane, which is clear. And 5 percent would be premium. [LR557]

SENATOR CARLSON: Premium, what's the octane? [LR557]

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JOHN DILSAVER: Depends on which terminal you're coming out of. Typically, 91 octane in the state of Nebraska. And that's typically a clear product right now. Some people are blending it. Some of my locations I do blend that premium with ethanol now. So about 80 percent of my sales at some locations are already blended with 10 percent ethanol. So we're chasing this 20 percent is sort of what we're talking about, you know. [LR557]

SENATOR CARLSON: Okay. Okay, any other questions? Thank you for your testimony. [LR557]

JOHN DILSAVER: Okay, you bet. [LR557]

SENATOR CARLSON: Okay. Next testifier. [LR557]

LORAN SCHMIT: (Exhibit 5) Chairman Carlson and members of the Ag Committee, my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. In the interest of saving time, and I know the questions become less as the hour gets later, I will not read my testimony, but will turn it into the clerk to be distributed to the members. I will have several quotes from it. We are, of course, very interested in the ethanol industry and the introduction of additional blender pumps. We know that if (inaudible) blender pumps were available, more people would use them, and, of course, there's always the question of whether the chicken or the egg, whether you get more blender pumps or whether you get more flex-fuel vehicles. As the previous witness testified, it's difficult for a retailer to aim for only 5 percent of the market. And there have been suggestions sometime in the past that all flex-fuel vehicles ought to be...I mean, all automobiles ought to be flex-fuel, because it costs very little to make...very little more to make a flex-fuel vehicle, about a hundred dollars is all it costs. It's kind of interesting that the federal government provides an incentive, \$500 credit for a sale of a electrical-powered vehicle, which is very limited use, but they seem to...the manufacturers seem to balk at spending an

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extra one hundred dollars to provide a flex-fuel vehicle. And it has also been indicated many people who own one do not even know that they drive one and it is able to use the blended fuels. So the Corn Board has done some good work in trying to promote that and make people knowledgeable that they have such a vehicle. It's very interesting to me that we have seen the development of the ethanol industry to the point of where 10 percent of the total fuel supply today is ethanol. When this industry started, it was never expected by the industry that...by the petroleum people, that we would see that kind of development in the market. It has taken place. EPA has approved 15 percent. We expect it will happen some time soon; and the sooner the better as far as we're concerned. But there was never any indication or interest in the ethanol industry in total replacement of gasoline. It's an octane enhancing factor and it has a lot of good qualities. And again, as the previous witness testified, even many blenders use ethanol to upgrade the octane of their 91 octane fuel. So it has some versatility in that regard. In 19...when Charlie Thone was Governor, he put the state fleet on E10 as a demonstration of confidence in the fact that E10 was not harmful to vehicles. We would like to see the state of Nebraska put in blender pumps at their fueling stations and make it a mandatory provision that all flex-fuel vehicles use the E15 or better and that all other vehicles, those that are qualified, 2001 or earlier, would use the E15. We think that would be a show of confidence to the industry and provide some indication to the public that it's a good fuel. Kind of interesting that other nations have been able to use larger, more stronger blends for years with no real problems. And I think that the industry and the petroleum retailers have worked to accommodate the changes that needed to be made in the fueling stations. And I commend them for that. There's been a lot of good cooperation between the petroleum marketers and the ethanol industry. And we appreciate those people who have really reached their...gone overboard to make ethanol a reality. It's also interesting to me that even some oil companies have really adapted to the idea that ethanol is here to stay, as Todd just said, and will no doubt be more of a factor in the time to come. Again, I will be glad to answer any questions and thank you for the right to testify. [LR557]

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SENATOR CARLSON: Okay. Thank you, Loran. Any questions? All right, thank you for your testimony. Anyone else wishing to testify? All right, seeing none, thank you for coming this afternoon on both of these interim hearings and listening and testifying and with that we'll close the hearing. (See also Exhibit 6) Thank you. Committee, thank you. We are adjourned. [LR557]