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COMMITTEE ON NATURAL RESOURCES
February 10, 2006
LB 848, 1186, 1187
Confirmation Hearing

The Committee on Natural Resources met at 1:30 p.m. on Friday, February 10, 2006, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 848, LB 1186, and LB 1187. Senators present: Ed Schrock, Chairperson; Elaine Stuhr, Vice Chairperson; Carol Hudkins, Gail Kopplin, Bob Kremer, LeRoy Louden, Vickie McDonald; and Adrian Smith. Senators absent: None.

SENATOR SCHROCK: Good afternoon. For the record, my name is Ed Schrock. I serve the Legislature as Chair of the Legislature's Natural Resources Committee. I'm from Holdrege, Nebraska, serving District 38. A few instructions before we start: If you have a cell phone or a pager, please silence it. I haven't introduced the committee up here yet. Senator Louden is not here yet but he would normally sit on the far end. He's from Ellsworth. Senator Gail Kopplin. Here comes Senator Louden through the door. Senator Kopplin is from Gretna. Senator Hudkins is from Malcolm. Next to me is Jody Gittins. Jody is the committee counsel. Senator Stuhr is absent now but she may be introducing a bill in another committee. Matter of fact, I recall that's what she said she needed to do. And Senator Stuhr is the Vice Chair of the Committee, and she's from Bradshaw. Senator McDonald is not here yet. She is from St. Paul, Nebraska. Senator Kremer's here. He's from Aurora, Nebraska. Senator Smith is here. He's from Gering. And the committee clerk is at the far end, and that's Barb Koehlmoos. If you want to testify on a bill, please get a sheet in the corner of the room. There should be one in each corner. Fill it out. Please print. When you come up to testify, spell your name for the record. If you don't want to testify, you can offer written testimony. If you do have written testimony to pass out, the page will help you. Our page today is Marcus Papenhausen. He is a sophomore at UNL. He is majoring in elementary education. He's from Coleridge. I will be leaving probably before the hearings are over. I need to get home for something that I've planned for some time. We have three bills by Senator Connealy today, and we have four confirmation hearings. If your testimony is long, I will stop you and ask you to be more concise. If you're repeating what somebody else has

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already said, I will not let that go on too long either. Some of us have been here for 12 years, and we've heard it all. Some of us haven't. But we're actually waiting for a phone call to come in. Our first confirmation hearing will be Tom Sonntag, and Tom is from the Panhandle. Is that correct? It's in the book here. Sidney. He will be confirmed to the Oil and Gas Conservation Commission, and we're doing that by telephone conference. We do that sometimes for people who have to drive long distances. So we're waiting for a phone call from him, and when he calls...I assume he knows the difference between central time and mountain time. Is Michael Blair here? Is Robert Hall here? Is Alden Zuhlke here?

ALDEN ZUHLKE: That will work.

SENATOR SCHROCK: All right. So we have three to the Environmental Quality Council. How many of you are reappointments? Two are. Okay. And you're going to come back for another round, huh? Glutton for punishment. Okay. And we've got Chuck over here waiting for the phone call. And I guess if it doesn't...is this it?

CHUCK HUBKA: He should be there, Senator.

CONFIRMATION HEARING ON
TOM SONNTAG TO THE
OIL AND GAS CONSERVATION COMMISSION

SENATOR SCHROCK: Tom Sonntag, are you there?

TOM SONNTAG: That is me.

SENATOR SCHROCK: Okay. I'm Ed Schrock. I'm chairing the Committee.

TOM SONNTAG: Good afternoon.

SENATOR SCHROCK: And I'm joined by Senator Louden, Senator Kopplin, Senator Hudkins, Senator Kremer, and Senator Smith. We may also be joined later by Senator McDonald and Senator Stuhr. You're here today for your confirmation hearing to the Oil and Gas Conservation Commission. We need to know... First of all, introduce yourself and spell your name. And

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then we need to know if this is a new appointment or a reappointment, and then a little bit about yourself and why you'd like to serve.

TOM SONNTAG: (Exhibit 1) My name is Tom Sonntag. My last name is spelled S-o-n-n-t-a-g. I'm an attorney. I live in Sidney. I've been here since July 1, 1975, and I practice here. The office of the Oil and Gas Conservation Commission is located here in Sidney. It's about three blocks from where my law office is located. I've been on the Oil and Gas Conservation Commission since around 1994 or 1995, I don't recall precisely when I started serving on the Commission. So this is a reappointment. I don't bring a whole lot of knowledge of oil and gas to the Commission. What I contribute is the ability to run a hearing. I understand a little bit about the Nebraska Rules of Evidence, and so that's where I make my contribution. I'm willing to serve on the Commission and it's not an imposition on me to do that. I can get to the Commission hearings with ease. Nobody has to pay me mileage or buy me my meals because it's right up the street basically. And I guess I'm willing to continue serving if that meets with your approval.

SENATOR SCHROCK: It's sounds to me like you're a cheap date, Tom. (Laughter)

TOM SONNTAG: Well, always have been. (Laughter)

SENATOR SCHROCK: Okay, now I'm going to open it up to questions by Committee members. Senator Hudkins?

SENATOR HUDKINS: Mr. Sonntag, how many members are there on the Oil and Gas Conservation Committee?

TOM SONNTAG: There are three. There's a producer from Kimball, and Reed Gilmore, and then there's a gentleman who is also in the oil and gas industry from McCook, Mr. Gohl.

SENATOR HUDKINS: Okay. And being a flatlander from the east part of the state where there are no oil wells, what does the Oil and Gas Conservation Committee do?

TOM SONNTAG: The Oil and Gas Conservation Commission is by statute created to ensure that the mineral resources,

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particularly oil and gas, are extracted in an efficient way without waste, and making sure that everyone that has an interest in those minerals is treated fairly.

SENATOR HUDKINS: Thank you.

SENATOR SCHROCK: Other questions? Senator Smith.

SENATOR SMITH: Hi, Tom. Thank you for your willingness to continue serving. I noticed on your business associations that you're affiliated with Common Cause - Nebraska. Can you tell us a little bit about your affiliation?

TOM SONNTAG: Oh, I'm a dues-paying member. Once upon a time I used to attend meetings periodically, but basically I just send in my dues. I can't recall the last time I was at a meeting. I don't even know who is in charge of the organization now.

SENATOR SMITH: Thank you.

SENATOR SCHROCK: Other questions? Tom, if you will stay on the line, I will open this up to proponent testimony from the audience that is here. Do I see any person who would like to speak in a proponent capacity for Tom Sonntag's confirmation? Do I see opponent testimony? Is there any neutral testimony? Okay, Tom. We're talking on your nickel but I guess that's maybe better than a trip to Lincoln. We appreciate you being with us today. Unless you have anything to add, I'll declare this confirmation hearing over.

TOM SONNTAG: Thank you very much, Senator.

SENATOR SCHROCK: Thank you for your willingness to serve.

TOM SONNTAG: You bet. Bye.

SENATOR SCHROCK: That will close the hearing on Tom Sonntag to the Oil and Gas Conservation Commission.

CONFIRMATION HEARING ON
MICHAEL BAIR TO THE
ENVIRONMENTAL QUALITY COUNCIL

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SENATOR SCHROCK: Mike...do you go by Mike?

MICHAEL BAIR: Yes.

SENATOR SCHROCK: Come forward please. You're in the hot seat but there's no buzzer there. Just...

MICHAEL BAIR: (Exhibit 2) My name is Michael Bair, M-i-c-h-a-e-l B-a-i-r, 305 18th Street, Aurora, Nebraska.

SENATOR SCHROCK: Did I say Blair? If I did, I'm sorry.

MICHAEL BAIR: That's quite all right. I hear that frequently.

SENATOR SCHROCK: Just tell us something about yourself. And you're a reappointment?

MICHAEL BAIR: Reappointment.

SENATOR SCHROCK: What segment do you represent on the Quality Council?

MICHAEL BAIR: I'm city administrator of Aurora, have been since 1989. I serve to represent the public at large on the Environmental Control Council.

SENATOR SCHROCK: And how long have you served?

MICHAEL BAIR: This is...I completed, I believe, four years.

SENATOR SCHROCK: And you have enjoyed serving and you want to continue to serve?

MICHAEL BAIR: I find it very educational. As the speaker before me, I'm willing to continue in the position. I've had the opportunity to serve with some very fine people, and I think maybe that's the most rewarding part of the experience are those people that you meet and work with during the process.

SENATOR SCHROCK: Okay, are there questions? We've been joined by Senator Stuhr, Vice Chair of the Committee. Are there questions for Mike?

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SENATOR KREMER: Yeah, Mike. I know Mike pretty well, and he does a great job in Aurora, but thank you coming and willing to serve. Do you find the Commission very concerned about our environment and willing to work together to improve and to also just nothing's going to be worse? I know we've always had some questions that some people on the Council are the polluters, which I never have felt that way. Just give me your opinion what you think of the Council as a whole and then your attitudes.

MICHAEL BAIR: I think my observation is that there is genuine concern for the environment from those that serve on that committee. I think there is probably a need to have some of those different sectors represented because some of the information is very technical. And for persons who don't work with the different type of chemicals, for example, it's very difficult to understand what the proposed regulation is really implementing. And I think, within the broad picture, everyone does have a genuine concern that the environment not be damaged.

SENATOR KREMER: Thank you.

MICHAEL BAIR: Um-hum.

SENATOR SCHROCK: Other questions? Senator Smith?

SENATOR SMITH: Thank you for your willingness to serve. Do you know of any areas relating to our natural resources or the environment in general where we should be more restrictive than the EPA?

MICHAEL BAIR: You know, there's maybe...my response won't directly impact your question, but an area of concern to me is the regulation of tires. You know, it is such an overwhelming massive issue that we still don't seem to have an adequate solution to. You know, there's many other areas that the Environmental Control Council looks at, as you know, but that's one that just I don't see over time that progress is really being made at a pace, at least, that I would like to see.

SENATOR SMITH: Okay. Thank you.

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SENATOR SCHROCK: Senator Hudkins?

SENATOR HUDKINS: Mr. Bair, going back to tires, you're aware, then, of the trial burn that they had using tire-derived fuel at Louisville at the cement plant. Do you think that's the way to go?

MICHAEL BAIR: I think perhaps it's one of the ways to go. I'm sure it's not the only one. The issues there are really what's going on in the ambient air. I think it becomes a technical issue. I'm in favor of finding ways to reuse these tires. Is that the best way? I think that's probably something that's going to have to be determined through air quality monitoring, perhaps longer term than just a single burn. But is it a step toward the solution? Potentially.

SENATOR HUDKINS: Thank you.

SENATOR SCHROCK: Any other questions? Mike, I see you grew up in Russell, Kansas. You know Bob Dole?

MICHAEL BAIR: Yes, sir. My in-laws are godparents to his daughter.

SENATOR SCHROCK: I'll be switched.

MICHAEL BAIR: I know him very well.

SENATOR SCHROCK: Okay. Well, that's interesting. Other questions? Thank you for being with us, Mike, and we appreciate your willingness to serve. And outside of Bob Kremer, you shouldn't get too much trouble on this committee. (Laughter)

MICHAEL BAIR: I'll look twice.

CONFIRMATION HEARING ON
ROBERT HALL TO THE
ENVIRONMENTAL QUALITY COUNCIL

SENATOR SCHROCK: And we've got Robert Hall.

ROBERT HALL: (Exhibit 3) Hello. I'm Robert Hall, H-a-l-l. This is a reappointment. I was appointed...you're taxing my

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memory, but about a year ago, I believe, is when I was down here for a confirmation hearing and took a seat on the Council. And I represent labor. And my current position which I've held, this is my tenth year, is I'm a business manager for the Heat and Frost Insulators and the Asbestos Workers Local 39, which is a trade organization representing workers across the state of Nebraska.

SENATOR SCHROCK: Okay. Then you were here last year.

ROBERT HALL: I tell everybody I've got a good memory...it's just short. But it seems like it was just about a year ago, 18 months at the outside. I apologize for not checking before I came down.

SENATOR SCHROCK: No, that's fine. Are there questions for Robert? Senator Smith?

SENATOR SMITH: Yes, do you have an opinion on size-based regulations on livestock waste versus the risk-based?

ROBERT HALL: No, I don't have an opinion of intelligence to answer that question. Like I said, it's been about a year. We've address that issue and I have done a little study on it. The concern that I have personally with livestock, what I paid attention to, is the concentration of the livestock, the number of it, and the proximity of water. And that's been a concern of mine. I remember in some hearings when we discussed this. I was glad to hear that there are firms out there. I believe they're independent even from the state, along with the state, that monitor well heads within a certain proximity of these feed lots. And I grew up on a farm. Short story, why I'm concerned about what you're talking about and I can't give you an intelligent answer as to the number of cattle that should be permitted, but when we had a young child, my boy who's 24 now, his lips were turning blue. And I told the wife it was her imagination. But it ended up what it was is it was a high concentration of nitrates in the water. And I sent a sample down to the state, thanks to the persistence of my wife, and the state couldn't believe the amount of nitrates in the well. So I sent another sample, and it ended up it was being polluted from chemicals from neighboring farms and from a feedlot that was close to the home at one time. So I had to put a new well in, and I had to go...I believe it was 220 feet

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before I had clean water. We had to go through several layers of clay. So when we discussed that, approximately one of the first issues we discussed, I was interested in that. So I am concerned and I try to follow it, yes.

SENATOR SMITH: Do you see state policy needing to be more restrictive than the EPA relating to those issues?

ROBERT HALL: I think what I remember from the hearings we had and the people that testified and the information I have retained, I think the state's doing an excellent job in monitoring it. I hope there's no cuts in any of that agency to where we can continue to monitor it because one of my concerns, of course, is air. I've dealt with asbestos my whole working career, and even prior my uncles and some of the aunts were affected by working with asbestos over the years. But I have a real concern for the air and water in the state, and I think that's something that sometimes we overlook. So I just, I'm confident from what I've learned so far sitting on the council, I'm very confident of the state and the role they're taking in this. And I just hope the funds are there that they can continue to monitor this because I think those are our two most precious resources is air and water.

SENATOR SMITH: Okay. Do you believe that it's possible for high water quality and livestock facilities to exist close together in a peaceful fashion?

ROBERT HALL: I believe, again, I don't know where you draw the line in the sand...and I'll put it in layman's terms, where you get too many cattle in a square acre. I think it should be a concern because I know it affects the water from personal experience. So if we're monitoring the wells around that feedlot, I think that's one of the most important things we can do. And my understanding of the current laws and the current regulations in the state in regards to livestock production, that's being done and it's being done properly and being recorded. And I think there's a lot of information getting gathered so that we can make some intelligent decisions five, six, seven, ten years down the road if we do see a problem. So I do think we're going in the right direction. If there's enough evidence to really come up with a solution yet, I'm not sure. But I'm very comfortable in the meetings I've attended, the

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information that's been given back to us.

SENATOR SMITH: Thank you.

SENATOR SCHROCK: Other questions? Senator Stuhr?

SENATOR STUHR: Yes. Thank you for your willingness to serve. And I see you're involved as an asbestos...what was it, instructor? Is that right? Instructor.

ROBERT HALL: Yes. I'm a state of Nebraska accredited asbestos instructor.

SENATOR STUHR: Do we still find lots of instances of asbestos?

ROBERT HALL: Yeah. It's everywhere.

SENATOR STUHR: It is. I thought maybe we had started to address that problem.

ROBERT HALL: No. There was a whole...I remember when I started in the industry. I believe it was the early 1980's, later 1970's, I would crawled around every dome in this building removing asbestos pipe insulation and replacing it with a fiberglass type insulation. And the laws weren't in place yet. The regulations weren't in place but there was enough knowledge to know that it was bad, and it was coming. So we did it the best way we knew how. We suited up. We contained it in plastic bags. We laid plastic down. Technology has come a long ways and that but, to answer your question, in 1986 they came up with the ASHARA law, which was the Asbestos Hazards Response Act to Schools. It went into effect in Congress in the United States for ten years. And they thought, well, we're going to do this for ten years and we'll have gotten rid of all of the asbestos in our schools throughout the country. And in 1996, they reissued it for another ten years. And I think in 1996, in that ten-year period, they removed 10 percent of the asbestos out of the schools. Not all your public facilities, but just the schools. I haven't heard anything recently, but just in talking with you, the light bulb went off. It's 2006, so that AHARA, the reauthorization, should be up this year and there will probably be some information coming out on it, which I hadn't given any thought till you just brought that

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up. But I guess to answer your question, long-winded as I am, in that ten-year period there was 10 percent taken out. And I haven't seen the results of the last ten years.

SENATOR STUHR: Okay. All right. Thank you.

ROBERT HALL: Um-hum.

SENATOR SCHROCK: Other questions? Senator Hudkins?

SENATOR HUDKINS: Well, 10 percent, is that because there's just so much of it or that there's a lack of people that are trained to do it.

ROBERT HALL: No, it's a lack of funds and the quantity that's out there. But the good thing is is they're addressing schools. Like so many of your pollutants we've been discussing here and so many pollutants and chemicals that the committee looks at, children are more at risk because of the cells splitting and growing. So you can expose a child to something and as his cells grow and split, that disease will become so much stronger, and his body will take over. As to where a grown-up, his cells are already developed. So it's good that they're getting it out of schools. It's very good.

SENATOR HUDKINS: Thank you.

SENATOR SCHROCK: Other questions? Robert, thank you for your willingness to serve...

ROBERT HALL: Thank you.

SENATOR SCHROCK: ...and for being with us. That will conclude your opening presentation. Is there people who would come forward as a proponent testifier? Is there people with opponent testimony? Is there neutral testimony? If not, that will close the hearing on Robert Hall's confirmation to the Environmental Quality Council.

CONFIRMATION HEARING ON
ALDEN ZUHLKE TO THE
ENVIRONMENTAL QUALITY COUNCIL

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SENATOR SCHROCK: We will go with Alden Zuhlke. Now if I said that wrong, correct me Alden.

ALDEN ZUHLKE: (Exhibit 4) My name is Alden, A-l-d-e-n, Zuhlke, Z-u-h-l-k-e. Glad to be here.

SENATOR SCHROCK: Tell us a little about yourself and why you would like to serve, Alden.

ALDEN ZUHLKE: I farm up in northeast Nebraska. Brunswick's my address. Senator McDonald is my representative.

SENATOR SCHROCK: She's never here. (laughter)

ALDEN ZUHLKE: I'll talk to her about that.

SENATOR SCHROCK: Okay. My committee's getting after me. She is usually here.

ALDEN ZUHLKE: I'm married and I have three boys, and we also have an exchange student from Germany at this time. So we have two boys in high school and one's through college and is presently farming with me. We run row crop and mainly hogs in our operations. I just give you some biography there, too, so...

SENATOR SCHROCK: All right. Thank you, Alden. Are there questions? Senator Smith.

SENATOR SMITH: What kind of insight do you have on a size-based versus risk-based livestock operations and regulations?

ALDEN ZUHLKE: That's a pretty wide open question there. Size...you know, the thing has changed here in the last...I mean it's always changing but with the higher oil prices and the fertilizer going up in price, it's kind of interesting that the manure's become more and more of an asset. Being in the hog business, I've always looked at it that way. Specific in size in my operation, I pumped effluent from a lagoon to fertilize the crops. So if I didn't have a certain volume of that, I couldn't utilize it to the extent I do. And for me it's been a tremendous asset. So you know, if I had specifics, I would need to know the location and what you're talking about, I guess, before I could

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answer too much more.

SENATOR SMITH: Okay. Thank you.

SENATOR SCHROCK: Other questions for Alden? Senator Stuhr.

SENATOR STUHR: Yes, so you're a new appointee?

ALDEN ZUHLKE: Yes.

SENATOR STUHR: Is that correct?

ALDEN ZUHLKE: Yes.

SENATOR STUHR: What do you see as one of your challenges as a member of the Environmental Quality Council?

ALDEN ZUHLKE: I heard some questions before, somebody mentioned about how do we compare with EPA, and there's a situation, I believe, right now that they're working on where Nebraska actually has stronger regulations than what the national regulation is. So that continues to be a real challenge. You know, you've heard this before, but we don't want to regulate our people out of business. And you know, the rural is declining in population. And every time you challenge somebody with either a feedlot or a hog operation and you tell them they have to do this to comply, and they look at the value of that and they just say, well, you know, maybe I'll find something else to do. So I see that as a real challenge to balance that out.

SENATOR STUHR: Okay. Thank you. Thank you for your willingness to serve.

SENATOR SCHROCK: Other questions? Senator Kremer.

SENATOR KREMER: Who are you representing on the side...

ALDEN ZUHLKE: I would be the livestock section.

SENATOR KREMER: Livestock section? Okay. Well, thanks. I know you've been involved in a lot of other activities, especially as far as agriculture is concerned, so we're very glad to have you be willing to serve on this commission.

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ALDEN ZUHLKE: Thanks. We were in Japan together with the Governor, so when you talk about size-based and you go to a country like that, it's a whole different world.

SENATOR KREMER: We had some good pork...

ALDEN ZUHLKE: Yeah, we did.

SENATOR KREMER: ...some good U.S. pork in Tokyo, too.

ALDEN ZUHLKE: Yup.

SENATOR KREMER: Probably came from your farm, I suppose.

SENATOR SCHROCK: Okay, we've been joined by Senator McDonald. We have one of your constituents on the hot seat.

SENATOR McDONALD: I see that. I see that. I made it just in time.

SENATOR SCHROCK: Other questions? If not, thank you for being with it. Let's see. Do we have proponent testimony for Alden? I have a letter here from the Pork Producers Association favoring your confirmation and it's signed by Rod Johnson, Alden. (Exhibit 5) So do we have proponent testimony outside of Pork Producers. Is there opponent testimony? Is there neutral testimony? If not, that will close the hearing on Alden Zuhlke. Mike, I see Robert left the room but I would say on behalf of the Committee, we continue to be impressed by the quality of the candidates who serve on the Environmental Quality Council, and we do appreciate that. If you'd pass that on to Robert, Mike, I'd appreciate that.

MICHAEL BLAIR: Sure will. Thank you very much.

SENATOR SCHROCK: Thank you for being with us.

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SENATOR SCHROCK: We will now open the hearing on LB 848.

SENATOR CONNEALY: Thank you, Senator Schrock and members. I'm Matt Connealy. I have the honor to represent the people

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of the 16th Legislative District. I'm here to open on LB 848. LB 848 would require that every gallon of gasoline sold in the state of Nebraska have a renewable content. We've been down this road before, but I think that it is actually new territory because of what's happened between the time we talked about it before and today. We would exempt historical vehicles, vehicles that are eligible to be licensed as historical vehicles. We would exempt off-road vehicles, motorcycles, boats, snow mobiles, small engines, and the exempt gasoline would be a premium grade containing 91 or more octane, and no more than one storage tank on a premise for a retail gasoline station shall be used for storage of the exempted gasoline. Fuel sold for aircraft would also be exempt. The Division of Weights and Measures of the the Department of Agriculture shall enforce this section. A bill of lading may be used to show compliance. You know, why is it different now? Minnesota has had this law in effect since 2000 and had tremendous success. Montana has initiated the same law, and Hawaii also. Montana's actually is contingent on them building an ethanol production facility in the state but they're on the road to do that. We are a different economy than we were when we talked about this before. President Bush last week talked about how we have to move away from our dependency on oil, and in particular he talked about ethanol. He talked about cellulose-based ethanol but also our part of this needs to be increasing not only the cellulose base as it comes on, but also the consumption here in Nebraska of ethanol. It benefits us all. It's great for the environment. As you know, it's clean burning and it's great for our economy. We see almost on a monthly basis the announcement of expansions here in Nebraska of facilities. This week the one that was mentioned was the ADM facility in Columbus is going to expand its ethanol capacity. It is very important for us as a state to support that and to support the use of this produce to as much extent as we can here in Nebraska. It not only helps with transportation, it makes the system work better. Auto makers have since 1978 declared that every vehicle is able to use it. They've actually moved from that point to recommending the use of it in every vehicle. Many parts of our country have ethanol in every gallon of gasoline at least some part of the year. The west coast and Phoenix, for example, have many not 10 percent. They're down to 7.5 percent or even 5 percent at some points but it's in almost every gallon of gasoline and with very little

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problems. We need to expand the consumption of ethanol here where we make it because it's better for the country and it's better for our state. Thank you.

SENATOR SCHROCK: Thank you, Matt, Senator Connealy. Senator Kremer?

SENATOR KREMER: Thank you, Matt...or Senator Connealy, I guess we're officially here, so...Minnesota has passed a law that requires 20 percent, I think. When is that due to take effect? And do they have to get some federal permits in order to do that before that takes place?

SENATOR KREMER: It is my understanding that it's in the future and it's contingent upon a waiver. The 10 percent blended fuel has been ruled to be similar to gasoline. Twenty percent hasn't been ruled to be similar to gasoline, so it would have to go through tests or get a waiver on the rules to allow that to happen. And it's not happened yet.

SENATOR KREMER: So the 20 percent would be contingent on that happening than at that time, so...

SENATOR CONNEALY: Um-hum, yes.

SENATOR KREMER: Do you know where we are in our consumption of the E-10 right now, percentage-wise?

SENATOR CONNEALY: We're...we're very high.

SENATOR KREMER: We're gaining a lot aren't we?

SENATOR CONNEALY: The consumption has gone up dramatically since we had talked about this in the past. I may have a testifier behind me to get the exact number but we are quite high. And you say, well, why do that then? Why do this? And I think this is actually the best time to do it. It doesn't affect the system much. We've seen a dramatic increase almost everywhere in the state from the time four or five years ago when we talked about this. Maybe it was a little longer than that. I think this is the time to move on to that next step. We are becoming more and more of a mature industry. I think we're going to be moving away from incentives eventually on a national level and more into requirements, both on the federal level...and I think this

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fits right in with that by states bringing that federal requirement down to home faster.

SENATOR KREMER: Thank you.

SENATOR SCHROCK: Senator Hudkins?

SENATOR HUDKINS: Senator Connealy, the vehicles that have been produced in the last five years, cars and trucks, are they all able to use 10 percent alcohol?

SENATOR CONNEALY: Yes, and even more than that, they're recommended to use it.

SENATOR HUDKINS: How about in the last ten years, vehicles?

SENATOR CONNEALY: Well, yes, they can. There is some concerns and that was what a lot of the discussion was a few years back when we talked about it that if you've had a gasoline-powered car that you've not used ethanol in, you may have lacquer and problems in your gas tank that will be cleaned to some extent by a cleaner fuel. It didn't pose very many problems in Minnesota. They're changing a few filters and things like that. I've got a 1975 Buick that I have used ethanol in since it was new. They're not a whole lot more older cars than that but we do have historical exemptions and older car exemptions in this.

SENATOR HUDKINS: What I'm getting at is people who say, well, my mechanic told me not to use ethanol.

SENATOR CONNEALY: We've had that ever since the beginning of this industry where mechanics have, for whatever reason, taken that approach. It's not a problem. If you talk to the trade schools and the mechanic schools in the state of Nebraska, that opinion is not promoted. Oftentimes when you can't figure something else out, there's a problem with it. If you have a problem with your read vapor pressure of your gasoline, which you can have, it does not mix correctly, then there can be a vapor lock problem with some cars but we need to keep the vapor pressure right for everything anyway.

SENATOR HUDKINS: Okay. Thank you.

SENATOR SCHROCK: Senator McDonald.

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SENATOR McDONALD: Looking at some of the gas stations in our rural communities, how many underground storage tanks would they have to have to accommodate what you're mandating?

SENATOR CONNEALY: Well, less than what they have now. This would require a renewable content in every gallon of gasoline. So if they wanted to use the same tanks that they have now, that would work. So there's no requirement to add another tank.

SENATOR McDONALD: So so to speak, they've have the one that has ethanol in it, and then the one that doesn't have ethanol in it, and then one probably for diesel concerning those that run for diesel...so they'd have to have at least three underground storage pumps because everything has to be stored underground. Is that correct? They can't do above ground?

SENATOR CONNEALY: The only problem would be if there was a retailer that only had one grade of gasoline now, and if they would want to have an exempt one. What has been very little disruption in Minnesota, very little of adding tanks or things like that because of the fact that some people go away from having a mid-grade gasoline and just have a premium gasoline and an ethanol blend.

SENATOR McDONALD: Do we know how many stations in, say, Nebraska that would only have two pumps?

SENATOR CONNEALY: No, but I can find that out. We had those discussions a few years back.

SENATOR SCHROCK: Senator Smith.

SENATOR SMITH: The list of exemptions being historical vehicles and eligible historical vehicles, off-road vehicles, motorcycles, boats, snowmobiles, small engines, and aircraft, would it be difficult for those consumers to find fuel sufficient for their engines?

SENATOR CONNEALY: I can't speak to every community, but I would not think it would be. There are multiple tanks now around for other grades and things like that. And we didn't

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see those kind of problems when it was instituted in Minnesota. There's always a little bit of change in what people do but if there's a demand for a grade of gasoline, then the retailers usually supply it.

SENATOR SMITH: And are you confident that we could maintain a competitive marketplace with this bill in place?

SENATOR CONNEALY: I am. You know, we are going to double capacity in the United States through the energy bill that was signed last year, and we're on our way to do that and maybe more. And Nebraska shows every indication that we're going to be more than our share of that, as I think that we should be. So we're going to have a tremendous amount of supply here. In Nebraska, we're going to most of it ship out. We're five percent of the population in the United States, and we are going to hopefully be a major player in ethanol production for the country. So we're going to continue to do that. But the more we can use here not only keeps our air and environment cleaner, it also helps the economics of the industry that's here.

SENATOR SCHROCK: Other questions, Senator Louden?

SENATOR LOUDEN: Yeah, Senator Connealy. Thanks for bringing this bill forward. This is something that needed to be discussed, I think. Is there enough capacity to produce enough gasoline to be able to have 10 percent of all the gasoline in Nebraska? I mean, will we run out of capacity to produce that?

SENATOR CONNEALY: No, we won't run out of capacity at all. We have more than enough capacity at this point, and we're going to increase capacity of ethanol production, so that wouldn't be a problem. I think what it will do is it'll make so that there's more consumption here and you won't need to export as much as we are now.

SENATOR LOUDEN: Now, when they do this nowadays, what do they use, natural gas to cook the hooch?

SENATOR CONNEALY: The majority of the heat for ethanol production at this point is natural gas. We're seeing, at least in some instances, where they're going to change that pattern. The new production facility in Blair is proposed

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to have an energy site on place also that would have coal and biomass burning for the whole bio refinery campus there at Blair, if you've ever been by that. And so that and other facilities are starting to talk about other ways to do it. And I think probably biomass is going to be more and more used as we get this more and more of a mature industry.

SENATOR LOUDEN: What I'm wondering is, if we increase our capacity then, are we in direct competition with the natural gas market, or are the ethanol plants in direct competition with farmers for drying crops or corn or running your house or anything like that? And everybody else that uses nature gas, are we increasing our use for natural gas?

SENATOR CONNEALY: Yes, I understand your question, and I think we are actually moving away from that eventually. But industrial processes, oil refineries use petrol chemicals to operate on also. So this is part of the whole process. I think as we get these plants and bio refineries more mature, we're going to have a broader array of energy sources and we see that now.

SENATOR LOUDEN: Another question. Senator Stuhr.

SENATOR STUHR: Just one quick one. You said Minnesota had this since 2000. What did they see as far as their usage and did it increase really...?

SENATOR CONNEALY: Yeah, they went from a level at that time that was below 50 percent to nearly 100 percent, and it's been very beneficial for them. And because of increased production and consumption, they thought they ought to move to the next level and asked for a 20 percent. But they haven't gotten there yet because of both of the things that we talked to Senator Kremer about.

SENATOR STUHR: Right. Okay. Thank you.

SENATOR SCHROCK: Other questions? Thank you, Matt. Been down this road before?

SENATOR CONNEALY: We have.

SENATOR SCHROCK: We will afford you the opportunity to close if you want to.

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SENATOR CONNEALY: Well, I'm here all afternoon, so...

SENATOR SCHROCK: Are you? I'm not, but that's all right.
First proponent, please.

STEVE SORUM: Good afternoon, Mr. Chairman and members. My name is Steve Sorum, S-o-r-u-m, here today on behalf of the Nebraska Ethanol Board. Senator Connealy spoke eloquently about the reasons for this bill and the reasons that we support it. I would like to add just a couple of points to what the senator said. Nebraskans this year will use about 900 million gallons of gasoline...between 850 million and 900 million each year. About 63 percent of those gallons, or roughly 560 million or 570 million will contain 10 percent ethanol. We remain one of the highest consuming states in terms of per capita consumption and also market penetration. This year we will produce about 600 million gallons of ethanol in Nebraska based on that 10 percent formula that is E-10. About 57 million of those 600 million gallons will remain here in the state. At today's prices, that's roughly \$114 million of fuel costs that will remain in Nebraska, will go to the pockets of Nebraska producers and owners of these plants, as opposed to being shipped out of the state for gasoline. That in itself, I think, is a reason to seriously consider this bill. Yesterday, as Senator Connealy said, ADM announced a 275 million gallon plant up at Columbus. Just put that in perspective, that complex up there, their existing plant plus their addition, based on today's capacity, that plant will produce 10 percent of the U.S. total of ethanol. And the addition that they're talking about up there will use about 100 million bushels of Nebraska corn or roughly 8 percent of our average corn crop over the last two or three years. If we went to the 100 percent use of ethanol in this state, we would be using roughly, in round numbers, 100 million gallons of ethanol. That, again based on today's prices, is \$200 million dollars that remains in the state instead of being shipped out for oil. E-85 is another issue. As more of those vehicles come on line and more and more ethanol is used, those savings continue to increase. It's a little known fact, and one that I never thought we'd reach, but we use, as I say, about 900 million gallons of gasoline. With our current production of 600 million gallons, ADM has announced 275 million gallons, and four plants under

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construction, another 15 in various stages of development, it's not inconceivable that we will be producing roughly a billion and a half gallons of ethanol over the next three or four years. This in a state that uses less than a billion gallons. So we will be in the enviable position of being energy exporters. That is, we will be producing a lot more liquid energy than we have a market for in this state. And because we are a relatively small state in terms of population and fuel usage, we are probably always destined to be energy exporters. But I would submit that many states would love to be in that position. So to close, we do support the bill. We think there are very good reasons for it. It looks to me like Iowa will pass this bill in the next couple of weeks. Their house has passed the bill. The senate appears to be inclined to pass it. And the governor has said he will sign it. So I think in the corn-producing states, it is a concept whose time has come and many others will adopt it. Thank you, Senator.

SENATOR SCHROCK: Thank you, Steve. Questions for Mr. Sorum? Senator Louden.

SENATOR LOUDEN: Yeah, Steve. Well, thanks for coming east, and you're one of the local boys that made good. So give my regards to your folks.

STEVE SORUM: I still have a job, Senator.

SENATOR LOUDEN: Are you familiar, there's a tax break on ethanol producers. Is there a federal tax break on that?

STEVE SORUM: On the ethanol produced?

SENATOR LOUDEN: Well, on the gasoline or the E-10 or whatever you call it?

STEVE SORUM: When it's sold, an E-10 blend is exempted from 5.1 cents of the 19 cent federal excise tax on gasoline. And that, frankly, is what has allowed ethanol blends to be competitive with gasoline over the years.

SENATOR LOUDEN: They should be five cents a gallon cheaper all the time then?

STEVE SORUM: Well, theoretically, as one looks at gas and

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ethanol prices over the years, ethanol prices have tended to be on average 51 cents higher than gasoline because of that incentive, which equates to...because of the 10 percent again, it equates to five cents a gallon. The idea of the incentive was to allow ethanol to compete with gasoline, and so on average, it's been about...the prices of ethanol tend to be about 50 cents higher than gasoline. Now in order to market that product, and in order to entice individual gas stations to sell it, ethanol producers will often try to bring that price down so there's a penny or two pennies extra in it for the gas station, which is the incentive for them to sell it. So if one knows the gasoline price, it's pretty easy to predict the ethanol price as a result of that excise tax exemption.

SENATOR LOUDEN: I guess my question is, if we pass a law they got to be ethanol in all the gasoline, will that actually raise the price of all gasoline in Nebraska? Will we be, because of that, at a disadvantage?

STEVE SORUM: I don't believe it will. And again, I guess we would look to Minnesota's experience. I testified at a hearing, a very similar hearing up there and I remember the oil company representative saying that the gas prices were going to go up five cents and six cents a gallon, that the state would be captive to the sheiks of the cornbelt rather than the sheiks of the Middle East. In fact, it hasn't been that way at all. Minnesota's gasoline prices remain very constant with their neighboring states, so over the five-year period they've had this law, that has not happened.

SENATOR LOUDEN: I see. One other question. Are you familiar with what the ethanol plants pay for their corn?

STEVE SORUM: I am.

SENATOR LOUDEN: Do they...are they paying more for corn than what a farmer can get at the elevator? I guess my question is, are they a price leader or a price follower with their corn?

STEVE SORUM: They tend to be price leaders. Ethanol plants are a little unique in that they need corn every day. Most plants will have storage for corn for between one and two

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weeks, but they are active in the market. And rather than see their plants shut down or not have enough corn on hand, they're out there every day bidding. And I think the numbers show that within a 50 mile radius of a plant, corn prices tend to be five cents to six cents higher than elevator prices over time. Now the price increase for areas outside of that 50 mile radius are a little harder to quantify but the fact is that this is now...ethanol is a huge demand for corn and I think corn prices are generally higher than they would be otherwise. But the most immediate effect is felt around the plants.

SENATOR LOUDEN: And a corn producer could go with the ethanol plant and get more for his corn than what he would down at a feedlot area or local elevator or something like that?

STEVE SORUM: Today I just happened to check in Columbus. It's about five to six cents higher at the ethanol plant.

SENATOR LOUDEN: Okay. Thank you.

SENATOR SCHROCK: Other questions? Thank you, Steve.

STEVE SORUM: Thank you.

SENATOR SCHROCK: Next proponent?.

RANDY UHRMACHER: (Exhibit 6) Mr. Chairman, senators, Randy Uhrmacher, R-a-n-d-y, Uhrmacher, U-h-r-m-a-c-h-e-r. I'm from Juniata. I'm a farmer. I'm here on behalf of the Nebraska Corn Growers. The Nebraska Corn Growers Association would like to extend our support for LB 848, which would provide a renewable fuel content standard for gasoline in Nebraska. The state has made several attempts over the past several years to provide incentives for consumption of ethanol. Today, none have been implemented. On the other side of the equation, we have provided programs over the past 20 years that have been very successful in building the state's production. As Nebraska continues to expand our production capacity of ethanol, we need to implement some type of plan to ensure we receive the benefits of those renewable Nebraska-produced fuels. NECGA believes this bill may be a program to accomplish this goal. We would also be open to other options such as removing the

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labeling requirement or a sales tax exemption on renewable fuels in the state. The opponents will claim that providing a renewable fuel standard for the state is a mandate proposal and will be unable to implement. It should be noted those opposed to the requirements are the companies that have done such a wonderful job in the past two years managing our fuel market while enjoying obscene profits. This was the same argument that happened over eight years ago when Minnesota implemented their fuel standard. Minnesota has benefitted economically and environmentally for their mandate, and is currently working to expand the requirements to a higher level. Several surrounding states are currently looking at renewable standards, including Iowa, Wisconsin, and Missouri. Each state has a different version but all have the same basic result, to ensure consumers and the states receive the benefits of renewable fuels. We think it is time for Nebraska to take this step and show our nation the commitment to clean, renewable fuel that is produced domestically. NECGA would look forward to working with the committee to develop a renewable fuel standard that will benefit all Nebraskans.

SENATOR SCHROCK: Thank you, Randy. Are there questions? Got a little gas, got a little ethanol in your tank today, do you?

RANDY UHRMACHER: I drive a diesel truck but all my gas vehicles have ethanol, including small engines, mowers, four-wheelers, boat...works in everything.

SENATOR SCHROCK: Fair enough. Thanks for being with us.

RANDY UHRMACHER: Thank you.

SENATOR SCHROCK: Next proponent, please.

JOHN THORBURN: (Exhibit 7) Good afternoon, Mr. Chairman, senators, my name is John Thorburn, T-h-o-r-b-u-r-n. I'm the manager of Tri-Basin Natural Resources District headquartered in Holdrege. I'm testifying in support of LB 848 on behalf of the Nebraska Association of Resources Districts. As you'll see in the attached resolution which was initially proposed by Tri-Basin NRD and adopted by NARD, the Nebraska Association of Resources Districts has taken a strong position advocating for mandatory use of

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ethanol-blended fuels in motor vehicles. We believe ethanol is far superior as an oxygenating additive to methyl tertiary butyl ether, MTBE, because unlike MTBE, it has no potential to contaminate ground water supplies. Ethanol also benefits air quality by reducing emissions of carbon monoxide and other noxious combustion by-products. Another benefit of utilizing ethanol as a gasoline additive is that it reduces consumption of imported oil. Ethanol is an ideal alternative fuel because it comes from a secure and renewable resource, corn and other crops supplied by American farmers. President Bush acknowledged that fact in his recent State of the Union Address, in which he called for increased ethanol production. In conclusion, the Nebraska Association of Resources Districts strongly supports efforts by the Nebraska Unicameral to mandate the use of ethanol-blended fuels in Nebraska because we believe that Nebraskans would see substantial and immediate environmental and economic benefits as a results of such a mandate.

SENATOR SCHROCK: Questions for John? Senator Louden.

SENATOR LOUDEN: You're representing the Nebraska Association of Resource Districts, that's right?

JOHN THORBURN: Yes, Senator.

SENATOR LOUDEN: How much water does it take to operate an ethanol plant? We had some interest in trying to do something out there, and they found out they had to buy out some farm ground in order to get enough water to work them. I mean, is an ethanol plant, then, competing for water with your surrounding farmers?

JOHN THORBURN: Certainly ethanol plants use substantial amounts of water, Senator. And, as an example, we do have one in my district, the Axtell area, which in fact is operated by a coalition of farmers. That plant, if I recall correctly, pumps roughly the equivalent amount of water as four or five center pivot systems.

SENATOR LOUDEN: And that district, then, isn't fully appropriated then, or...

JOHN THORBURN: It is in the Little Blue portion of our NRD,

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which is not yet considered fully appropriated. And in fact, the plant predates the LB 962.

SENATOR LOUDEN: As we expand with new plants, then, will that be an issue on some areas about the water to support one of these plants? Well, it is certainly a consideration, Senator, because we can't allow increased consumption of water resources without some sort of offset. That is being address, in fact, with a new plant that's being proposed by Wood River, Nebraska, and the owners or the consortium that's putting that plant together are in the process of making some arrangements with farmers to retire some irrigated acres to offset that additional consumption by the ethanol plant...

SENATOR LOUDEN: You got that...

JOHN THORBURN: ...and apparently feel that's an economically workable thing.

SENATOR LOUDEN: Thank you.

SENATOR SCHROCK: Any other questions for John? John, you're the father of twins, and I'm sure you feel a little easier about it because they have cleaner air to breathe because of ethanol, right?

JOHN THORBURN: That's correct, sir. Very important.

SENATOR SCHROCK: And they're seven years old?

JOHN THORBURN: Yes sir.

SENATOR SCHROCK: Seven years old. Girl and a boy.

JOHN THORBURN: Yes, sir.

SENATOR SCHROCK: Keeps life interesting, doesn't it?

JOHN THORBURN: Yes, it does.

SENATOR SCHROCK: Thank you, John.

JOHN THORBURN: Thank you, Senator.

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SENATOR SCHROCK: Next proponent.

KRISTEN GOTTSCHALK: Chairman Schrock, members of the Natural Resource Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and the registered lobbyist for the Nebraska Rural Electric Association, and that's who I'm here to testify for. We're here to testify in favor of LB 848, the renewable fuel standard. A number of reasons for us, and I don't want to reiterate the things that have been said before, the economic benefits, the environmental benefit, of course, are all part of the package. I do want to emphasize, though, the rural economic development benefits of ethanol production in our small rural communities has been a big boon to the rural areas. Obviously, there's an electric load benefit to a rural electric system for the ethanol plant but we do feel that the economic development benefits far outweigh that. And when I was directed to come here and testify, our position was originally to support the concepts of LB 848 but we had some concerns and some questions. And as I've listened to the testimony and spoken with Senator Connealy, most of those concerns have already been addressed. The first concern was, would there be enough ethanol production in the state to accommodate a 3.5 percent weight status in all fuels in Nebraska, and it's my understanding that that has been addressed. And there was a concern, also, of increased cost for ethanol fuels. Is this is start-up? It's my understanding that, you know, any time you start a new program, you're going to have additional costs, and the costs may increase but over the long term the economic benefits outweigh that as well. So with that, that concludes my testimony. If you have any questions, I would be happy to answer them.

SENATOR SCHROCK: Thank you, Kristen. Are there questions? We appreciate you being with us. Next proponent?

JOHN HANSEN: Chairman Schrock, members of the Committee, for the record my name is John K. Hansen, H-a-n-s-e-n. I appear before you today as the president of the Nebraska Farmers Union, and also our lobbyist. We are in strong support of LB 848. We were very much involved with helping identify and bring this concept from Minnesota to Nebraska the last time we took a run at this, and we look at what's

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working on both sides of the equation for both stimulating new ethanol production and also increasing ethanol utilization. And to our way of thinking, Minnesota has broken the ground. They've developed the track record. We look at what goes on there, how that's worked. It's an excellent and positive example of what a state can do that costs very little money, yet has an enormously positive economic benefit on their state. From our standpoint, while some folks would cast this as an issue of a mandate, we would look at it in terms of a standard. And do we want a higher or lower standard relative to the consumption of petroleum-based fuels in our state, and we view this as an opportunity to have a higher standard that provides air quality benefits, economic benefits, rural economic developments, it builds on all of our infrastructures, our sizeable state commitment to developing ethanol, and one of the things that hasn't been talked about but is important from, I think, a public perception standpoint is that if our state is going to be one of the nation's leaders in ethanol development, which I hope we continue to be, we have to also lead by example. And this is an opportunity for us to actually practice what we preach and really provide a positive example. And I see very little downside in Minnesota. It's just the problems have just not developed, and as a result we can enthusiastically support LB 848 and hope that the Committee would look favorably upon it. I would be glad to answer questions if you have any.

SENATOR SCHROCK: Thank you, John. Senator McDonald.

SENATOR McDONALD: Do you think this will be a problem for some of the small rural gas stations?

JOHN HANSEN: I don't think so. I hope not. That would certainly not be our intent.

SENATOR McDONALD: When I shop for gas and they have E-10, is this just E-10? Are we changing the formula?

JOHN HANSEN: This is E-10, just more of it. And surprisingly enough, when folks use E-10, don't know they use E-10, they have no ill-effect.

SENATOR SCHROCK: Other questions? Senator Louden.

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SENATOR LOUDEN: Given the fact that we're having trouble, probably, funding the ethanol plants and now you say we need to practice what we preach and all that sort of stuff, are we going to probably be able to build all the ethanol plants we need irregardless of whether we put it in our own gas or not, or are we going to have trouble getting our plants built and funded the way it is? In other words, will be get enough production without putting it in our own gasoline?

SENATOR HANSEN: Well, from a technical standpoint, we have more production than we need now. It's not a matter of...to my way of thinking, it's not a matter of Nebraska getting enough ethanol for what we produce, we're obviously producing not only for ourselves, but for the bigger market in the United States. From my standpoint, as we look at it, we look at it as a lost opportunity because when Nebraska uses the fuel source that we ourselves grow and manufacture, we're getting an economic benefit from doing that. And so it looks more like a matter of a lost opportunity in terms of our own economic development within our state.

SENATOR LOUDEN: Now, when you say "economic development", at what price? Because we're using natural gas, which is in competition with somebody farming. We have to use water not only to produce the grain, but we have to use water to produce the ethanol, and when you get probably west of Kearney, there's usually not much difference in the price between ethanol and gasoline but you've got a percentage of efficiency less. In other words, you get less miles per gallon. And I think that's a given fact. So when you say "opportunities", it's opportunities for who but at what cost?

JOHN HANSEN: From our standpoint, when you add up all of the costs and you add up all of the benefits, there's the enormous net benefit to our state to not only produce more ethanol, but consume more ethanol, all things considered.

SENATOR LOUDEN: Okay, thank you.

SENATOR SCHROCK: Senator Louden, my neighbor is running a 454 Chevy engine on an irrigation well on 90 percent alcohol and 10 percent water, and it's running cooler than it does on natural gas, so I assume just shortly all the natural gas irrigation motors will be converted to alcohol engines and

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they won't know what to do with the natural gas.

JOHN HANSEN: Well, I was thinking more on your crop drying, your propane tanks out in the western end. We have to burn propane out there to heat the place because--did Kristen leave, yeah--sometimes the power had gone off there, so...

SENATOR SCHROCK: All right. I shouldn't have interjected that. But John, if we're going to do this, we need a lot more livestock in this state, don't we?

JOHN HANSEN: Way before that.

SENATOR SCHROCK: Okay. Good. Next proponent? Opponent testimony.

MARVIN HAVLAT: Chairman Schrock, my name is Marvin Havlat. That's H-a-v-l-a-t, 1828 Sunrise Road, Milford, Nebraska. I'm a farmer representing myself. Two years ago, Senator Landis, who gave millions of dollars to the ethanol company when I think corn was about \$2 a bushel, told me in that committee hearing across the hall that you're going to get \$2.75 to \$2.85 a bushel. I sold it for \$1.45 at the Pleasant Dale elevator this year. It takes, according to Roscoe Bartlett...he's a United States Senator from Maryland...excuse me, he's a Representative from Maryland. He started I.B.M. He showed me a pie chart. If you're going to produce ethanol and get 100 gallons, you're going to use about 95 gallons of fossil fuels to get to that 100 gallons of ethanol. I think we've heard here in the last few days that people are a little concerned about who's going to share the water. After that committee hearing yesterday, I and several of the gentleman from the power plants, the farmers out there, we all came to the same conclusion as we walked down the hallway. The whole problem is corn. Corn's going to demand too much water, and your ethanol production, you just don't get that much net energy from it. That's a University of Michigan study. So I don't see this solving any of the water problems, any of the income problems for the farmers, and not really any of their energy problems. If you're going to add your ethanol to the oil, the petroleum, realize this. I'm a veteran from Viet Nam, and we're getting our oil from the Saudi's who are Mojahedin who give their money, according to President Bush a couple of nights ago, to the Mojahedin in Iraq, and they

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use that money to kill our own National Guardsmen. I got into it with Governor Heineman. Every other industrial nation in the world but the United States grows industrial hemp. It's ten times as efficient per acre as corn, and I think it's time for everybody to sit down and take a realistic look at that crop. You're going to be paying Kansas for water? You don't need to do that. That's all I have to say. Any other questions?

SENATOR SCHROCK: Thank you, Marvin. Margin, looks to me like we could probably use the ethanol in our car and maybe lubricate the engine with hemp oil.

MARVIN HAVLAT: That would work well but actually hemp seed oil produces 1,000 gallons of methanol per acre, and it would be a different conversion. Daimler Chrysler is producing a biodiesel engine that's coming out in 2007.

SENATOR SCHROCK: Well, I tried to...

MARVIN HAVLAT: But your corn is not going to get away from all of the input, all the pollution. You sit here and see these people about pollution? Minnesota's pumping their aquifers dry. We've got 2,000 pounds of actual nitrogen going into the aquifer because of corn. We've got signs above our drinking fountains in Seward telling the kids, "Don't drink the water." You've just heard a gentleman here today and yesterday tell you that the nitrogen in the water is a huge problem. Seward spent \$1 million-plus to get that nitrogen out of their water for their city system? They couldn't do it. It's a failure. Hemp will send roots down 25 feet and pull nitrogen out.

SENATOR SCHROCK: All right. Thank you, Marvin.

MARVIN HAVLAT: Dr. Andrew Wile, a doctor from Harvard University, in Time Magazine says one of the healthiest foods there is is hemp seed oil.

SENATOR SCHROCK: All right. No further questions? Senator Stuhr.

SENATOR STUHR: I just have one question. Thank you, Marvin. I know that there have been some other latest studies on the amount of energy required to produce ethanol.

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I don't know if you are aware of those?

MARVIN HAVLAT: I am aware of that. I work with the doctors over at the University but that technology is not here yet. But you've got the same problem. You don't have to fertilize with hemp. You don't have to use weed killers. You don't have to use water. That's what it going to come down to. I can sit here and I look at your people. You're going to have to grow it if you're going to maintain energy in the future. Six years from today, the petroleum industry is going to crash because the demand is exponential from China. We're borrowing all our money from China. We're not going to be able to do anything about it when we owe China and we want to go stop some nuclear development, we'll be so powerless because China will own us.

SENATOR STUHR: That's probably why we need to continue to work on alternative fuels.

MARVIN HAVLAT: We do but I say this, that hemp seed oil, I think, is the only alternative. France grows 224,000 acres a year of hemp seed oil, yet we don't hear about it here. There is a big meeting up in Canada this summer. All the hemp seed producers are going to bring their genetics there. I, under your program LB 90, have asked for \$15,000 for Dr. Hanna, \$15,000 for Dr. Nelson who testified before this committee over there three years ago under Senator Schrock's bill here. Your own state patrol, head of the narcotics division, testified that hemp would stop the illegal production of marijuana but he wanted it illegal because of job security. I'm a behavioral scientist.

SENATOR STUHR: Thank you.

MARVIN HAVLAT: I see the drug war. That's another big drag. We're not handing that right either.

SENATOR SCHROCK: Okay. I don't see any other questions, Marvin. Thank you for being with us.

MARVIN HAVLAT: Thank you very much.

SENATOR SCHROCK: Maybe we can amend this with the hemp on top of it. How does that sound?

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MARVIN HAVLAT: You can buy the oil and bring it in.

SENATOR SCHROCK: Thank you. Next opponent.

TIM KEIGHER: Good afternoon, Chairman Schrock, members of the Committee. My name is Tim Keigher, K-e-i-g-h-e-r. I appear before you today on behalf of the Nebraska Petroleum Marketers and Convenience Store Association in opposition to LB 848. I guess our opposition...the first thing I want to clarify is that we are not against ethanol. We are against a mandate. The last time I checked, all of our members sell ethanol-blended fuel...or we sell all of the ethanol-blended fuel that is sold in the state. As was mentioned earlier there is a federal mandate, which has already created a nationwide demand that is double what we are producing today. Our concern is that Nebraska consumers are going to pay more. If you look at the price of ethanol today, it's about four cents a gallon higher than what regular no-lead is, and that's because the ethanol producers in this state are selling that ethanol to nonattainment areas in the country like Albuquerque, New Mexico, and Denver, Colorado. Do we blame them for that? No. It's a supply and demand issue. If they can get more money for it somewhere else, more power to them. Also, we have some concern about a border bleeding issue. You know, with being in such a close proximity with a lot of our population to Iowa, some of my members that own stations in Iowa say that 75 percent of the cars that they see in their stations are Nebraska cars to begin with. Senator Kremer, you had asked a question about the EPA allowing 20 percent blends. When there was a huge advantage in the ethanol price about six or eight months ago, several of my members wanted to increase the percentage of ethanol that they had in their fuel. The U.S. EPA looks at a 10 percent blend as still gasoline, and they look at E-85 as an alternative fuel. And there is no middle ground in between. I guess the other thing is consumer choice. We feel that it should be the consumers' choice. Right now, I think the percentage is about 70 percent of the fuel that is sold is ethanol-blended fuel, and it's price sensitive. We understand that, too. But it's no different than when they come into our store and want to buy a Coke or a Pepsi, or if you go to buy a car, you want to buy a Chevy or a Ford. You should have that choice. Something that was said earlier about the federal tax. The federal tax is 18.4 cents a gallon on all gasoline, whether it's 10 percent blend or

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not. They changed that program January 1 of last year. The tax rate used to be 13 cents a gallon. And the way to get to that number is you took 51 cents a gallon federal subsidy on the ethanol portion itself, and a 10 percent blend was 5.1 cents. What they did is they took...instead of that money coming out of the Highway Trust Fund, it now comes out of the General Fund, so the tax remains the same but the marketer or the blender is able to apply for a 51 cent-a-gallon credit on just the ethanol portion of the blend, which is 5.1 cents, which gets you back down to that same net number. I guess, Senator McDonald, you had a question about small stations. Yes, I think that in rural Nebraska where some stations may only carry...may only have one or two tanks, they may carry a gasoline and a diesel fuel, or maybe they just carry a gasoline, I think this will be a burden to them, as they won't be able to carry premium for the exemptions that are allowed in here. I guess the previous gentleman mentioned about the University of Michigan study, and I guess the only comment I have on that is we beat them, didn't we? With that, I would be happy to answer any questions.

SENATOR SCHROCK: Senator Kremer.

SENATOR KREMER: I might have missed something. You said something about 75 percent of the cars in Iowa are from Nebraska.

TIM KEIGHER: At one station that one of my members owns in Iowa, he said that 75 percent of the cars that fuel at that station have Nebraska plates on them.

SENATOR KREMER: But why or what's the reason for that?

TIM KEIGHER: His reason is the tax differential. It's about 6.5 cents a gallon on ethanol-blended fuel.

SENATOR KREMER: So they drive 20 miles to save five cents?

TIM KEIGHER: Well, I think they're probably over there for other reasons. This happens to be across from one of the river boats. (Laughter) They're probably going over there for that and while they're there, they're buying gas but...

SENATOR KREMER: That's the rest of the story. (Laughter)

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SENATOR SCHROCK: I hope they fill up before they go to the boat or they may not have any money to buy gas. (Laughter)

TIM KEIGHER: Spoken from someone who might know.

SENATOR SCHROCK: Next question? Careful there. Tim, I'm interested in your thoughts about exemptions here for boats. One of the things we know that snowmobiles, motorcycles... I mean, I've got four-wheelers on the farm. I've got a boat. My brother's got a boat. Small engines. We haven't burned anything but ethanol-blended fuels in them for 25 years. If this would pass, would you support the exemption on those type of vehicles or do you think it makes any difference?

TIM KEIGHER: I mean, I guess we don't have any opinion on the exemptions.

SENATOR SCHROCK: I'm just...

TIM KEIGHER: Whatever the manufacturer would recommend.

SENATOR SCHROCK: ...wondering why the exemption is there. Maybe Senator Connealy will address that when he comes back up here. Other questions? Yeah, I would ask one. Gasoline is high-priced now.

TIM KEIGHER: I don't disagree with you on that.

SENATOR SCHROCK: Is still part of that Katrina, are all the Gulf wells up and the refineries in the Gulf, are they up and running at capacity, or what's going on there?

TIM KEIGHER: To my knowledge, they're not up to 100 percent. What percentage they are at today, I don't know. I mean demand is just up. As the previous gentleman mentioned, the demand in China has doubled in the last couple of years. That has a lot to do with it.

SENATOR SCHROCK: Would you speculate that if it was not for the ethanol industry, gas prices would be higher yet?

TIM KEIGHER: I don't know that I could answer that intelligently. I don't know.

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SENATOR SCHROCK: We wouldn't want you to answer it out of ignorance, I can guarantee you that, so...Senator McDonald has a question.

SENATOR McDONALD: As we go to the pump, and as a consumer of a fair amount of gas because I do a lot of driving, generally the ethanol is a few pennies cheaper. Now I've noticed the last couple of days as I've purchased gas, filled every day for the last three days, that ethanol is higher, at least at the stations I've stopped at. I don't know if there's a difference just because of the stations. Is that demand? Is it true that they're sending more away than they are here, so that's what's upped the ethanol.

TIM KEIGHER: Yeah. The demand in the nonattainment areas, which my understanding is a lot of the ethanol from Nebraska goes to Denver, Colorado, during the wintertime to meet the nonattainment ozone requirement, and to Albuquerque, New Mexico. So they're getting a premium for it there, which they should. I mean it's supply and demand working the way it should.

SENATOR McDONALD: And if we offer E-10 and premium, and premium is the highest quality of gasoline that you can purchase, is that correct?

TIM KEIGHER: The highest octane?

SENATOR McDONALD: The highest octane, which is generally the most expensive. It's your premium gasoline, or whatever they call it. So that one would be the highest priced gas. And the ethanol, hopefully, would be the cheaper one. But that's not to guarantee that we're going to get anything that's any cheaper. It's going to be whatever it is high. They'll both be high. Higher than they are now. We don't have the opportunity to purchase anything that's of lesser dollars, so to speak. You go to the ethanol plant...or the gas station, you can buy the premium if you don't put ethanol in. You're going to pay the highest dollar, because you only have the premium to purchase.

TIM KEIGHER: My understanding of this bill is you cannot buy premium other than for the exemptions that Senator Schrock or Senator Connealy mentioned in his opening...that

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if you have a car, no matter what kind of vehicle that is, you're going to have to put an ethanol-blended product in. Now you may have a choice between two different octanes but it's going to have to be an ethanol-blended product. The premium can only be used for antique vehicles, boats, snowmobiles, that list.

SENATOR McDONALD: What can keep people from purchasing it?

TIM KEIGHER: That I don't know. I suppose you're going to have to give us a gun so they can police that.

SENATOR SCHROCK: Any other questions? Tim, my staff did check, and at one of the ethanol plants in Nebraska they said that the rack price for ethanol is about \$2.41. That's high. And he said they told him that the U.S. bought ethanol was around \$2.50 to \$2.60, so considering the increase in ethanol production, that's pretty high priced. Petroleum companies aren't the only ones making money nowadays. Other questions? Thank you, Tim.

TIM KEIGHER: You bet.

SENATOR SCHROCK: Don't stay out too late tonight, okay?

TIM KEIGHER: I won't.

SENATOR SCHROCK: Next opponent.

GORDON KISSEL: Senator Schrock, members of the Committee, my name is Gordon Kissel. It's G-o-r-d-o-n K-i-s-s-e-l, here today as the registered lobbyist for the American Petroleum Institute in opposition to LB 848. Questions on the vote kind of made me think I was going to have to identify myself as the registered lobbyist for Ameristar but...This one, Tim essentially said what we have our concerns is that we do see it as a mandate. We've always opposed mandates. And let me just read into the record one sentence, for the record. It should be noted that the members of the American Petroleum Institute have supported the efforts to expand the usage of renewable fuels in this country and will work to ensure these fuels have an appropriate role in the motor fuel delivery system in the most effective and efficient way possible, a given specific company and marketplace characteristics. Now you have

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already heard that the renewable fuels, 65 to 70 percent are already in Nebraska, so it is a legitimate part of the market. Our product contains that. We fall down on the side of consumer choice and having an option when you do pull up to the pump. So for that reason, we would oppose it. I'll just finally conclude, because most of my testimony Tim covered, but I'll just say that in the national energy legislation that was passed by Congress this year, the American Petroleum Institute did support nationwide renewable fuel standard. It ended a 7.6 billion. We agreed to a five billion gallons by 2012, so it went higher than we wanted it to be, but we did support it and continue to support it. With that, I would be happy to answer any questions.

SENATOR SCHROCK: Thank you, Gordon. Questions? Gordon, you say you oppose mandates. Do you remember when the federal government mandated that the lead be taken out of gasoline? Did your industry oppose that? And when some of these states passed mandates to take the MTBE out of gasoline, did your organization oppose that?

GORDON KISSEL: Our response to that, Senator, is that those mandates were for public health and public safety. This is for market. So that's where we came down. We support for public safety. We don't support mandates for market. And we think the market ought to be able to be the thing that plays out.

SENATOR SCHROCK: Well, I understand they passed it in Minnesota partially because of public safety issues because they were out of attainment on their air quality standard in Minneapolis. And the only way they could get in compliance was to use the ethanol.

GORDON KISSEL: Well, I'll just reiterate that public safety is one that...to us there's a distinction between public safety mandates and mandates that increase market.

SENATOR SCHROCK: Do either you or Tim know what stage of... the bills might be in Iowa as far as the ethanol mandate? Would you like to comment?

GORDON KISSEL: I don't know for sure. What I have heard is that they have been moving in Iowa. There is,

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notwithstanding what some people say, there is a question whether or not they'll pass. We have seen in Montana and I've forgotten the other state all of a sudden, that they did support those mandates. But we've also seen mandate legislation not be supported in states like Illinois and others. So I think it's still iffy whether or not they're all going to pass or if they're all going to be defeated. I think you'll see some successes, depending on what side you're on.

SENATOR SCHROCK: Thank you. Other questions? Senator Kremer.

SENATOR KREMER: We've mentioned, I think, Albuquerque and Denver during the winter months. It is mandated to be at all their gasoline throughout the winter months?

GORDON KISSEL: Well, that's a good question, Senator. I don't know the answer to that.

SENATOR KREMER: I don't know either whether it's a certain percentage of it is all? I'm seriously asking if you knew.

GORDON KISSEL: Yeah, I don't know off the top of my head. I'll have to double-check. I don't know for sure.

SENATOR KREMER: Thanks now.

SENATOR SCHROCK: Other questions? Thank you for being with us.

GORDON KISSEL: Thank you.

SENATOR SCHROCK: Next opponent? Is there neutral testimony? Senator Connealy, would you like to close?

SENATOR CONNEALY: Thank you, Senator Schrock and members. I think that the world is different now, and that we have an opportunity to really make some more progress here in Nebraska, and I'm excited about it. And you know, I think I'd like another run at it, too. I'm sure we can get on consent calendar, so let's move this out. (Laughter)

SENATOR KREMER: Could you mandate that?

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SENATOR SCHROCK: How many years ago was it, Senator Connealy?

SENATOR CONNEALY: I don't know, was it six?

SENATOR SCHROCK: It was LB 1234, as I recall.

SENATOR CONNEALY: Yeah, I think it was six.

SENATOR SCHROCK: If there's no questions for Matt, I will close the hearing on LB 848. I'm going to turn the proceedings over to Senator Stuhr?

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SENATOR CONNEALY: (Exhibit 8) Once again, I'm Matt Connealy. I represent the 16th District. I'm here to open on LB 1186. LB 1186 is actually based on an Iowa law that was passed last year and it has been very successful, I think. This bill creates a renewable fuel infrastructure cost share program to provide financial incentives for the insulation or conversion of pumps used by retail service stations to sell and dispense E-85. The Legislature shall appropriate \$400,000 from General Funds beginning July 1 of this year and ending June 30 of 2010. The financial incentives shall not exceed 50 percent of the actual cost of installing necessary infrastructure. You know, I got up this morning and got in my Taurus and I had to drive all the way across... I live out on the northeast part of town, and I had to drive all the way across town to fill up with E-85. We have 30 stations here in Nebraska that sell E-85. We only have two in Lincoln, and only one in Omaha where the majority of the fuel in this state is sold. We need to drive this infrastructure and help what really is becoming a growing part of what we're going to do for energy independence. We have approximately 40,000 flex fuel vehicles on the road in Nebraska like my 2002 Taurus and multiple other types of cars that use that. Ford actually highlighted this week their first flex fuel hybrid car that they're going to be marketing. The price installing a pump is expensive. Currently, stations can receive a tax credit for these pumps from the federal level but I believe that it will be very helpful if we would also help in that effort. Nationwide there are 587 of the total 170,000 service

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stations that sell E-85. Nebraska currently only has, like I said, 30. We need to continue to encourage the use of E-85. As I was looking through some things on the computer today, I happened to hit MSN.com and there was one of the banner ads at the top, and it was from GM. And it had an ear of corn rolling across it and it said, "Live green, go yellow." It was their new ad campaign for their yellow caps on their flex fuel vehicles. Ford went through a large national campaign of touting their E-85 vehicles. Now GM is doing the same thing. This is a wave of the future. And we need to help this get more entrenched in Nebraska.

SENATOR STUHR: Okay. Thank you, Senator Connealy. Are there questions from the committee? I just had one. The incentives shall not exceed 50 percent of the estimated cost. Is that...

SENATOR CONNEALY: Yes.

SENATOR STUHR: So...

SENATOR CONNEALY: And they'd also get aid from the federal credits, too.

SENATOR STUHR: Oh, Okay. So what if there's more demand than what we have money.

SENATOR CONNEALY: It's a cap program.

SENATOR STUHR: Okay. So...

SENATOR CONNEALY: We appropriate that as we do with other programs in economic development. It would use up that much or as much as would be applied toward that much...

SENATOR STUHR: Okay.

SENATOR CONNEALY: ...every year for the period of the program.

SENATOR STUHR: So it would sort of be first come...I mean, they'd have like a grant process, so to speak or...

SENATOR CONNEALY: Right.

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SENATOR STUHR: All right. Thank you very much. Oh, excuse me. Two questions here. Senator McDonald.

SENATOR McDONALD: What percentage of cars on the road can use E-85?

SENATOR CONNEALY: Well like I said, there's approximately 40,000 now. I don't know what the total number of cars...I can get that for you. It's not the majority of cars but I think as we move forward, we're going to move toward that. And I would not think that it would be out of the question that every car made would have that sensor and chip. Because really what it is is a sensor in the fuel line to decipher what the fuel is, and then it's a change...it's a larger change chip in the computer to allow a different blend set for fuel. It's not very complicated. We've had them around for 20 years but really the last ten years they've had dramatic increase in the sales but we really haven't caught up with the infrastructure.

SENATOR McDONALD: So if I'm in the gas station and sometimes in a car that will use E-85, because you can't put it in a car that won't accept it...

SENATOR CONNEALY: Well, you probably shouldn't do it. I wouldn't encourage it. It happens. I know lots of people when the fuel was dramatically lower as it was a few months ago, would use it 50 percent or more but it's not recommended and it's not something you should do. It should only be used in flex fuel vehicles.

SENATOR McDONALD: So I have a car that will run on E-85 and if I can't get to an an E-85 station and I use E-10, the car knows...

SENATOR CONNEALY: I just took...yes, it senses...

SENATOR McDONALD: ...what gas I put in?

SENATOR CONNEALY: ...at 85 percent or 10 percent or any place in between. It will sense it and change it.

SENATOR McDONALD: Because obviously, if you have a half a tank of E-10 and half a tank of E-85, you've got somewhere

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in the middle.

SENATOR CONNEALY: Yes. Right. The car...

SENATOR McDONALD: The cars will do that?

SENATOR CONNEALY: The car operates fine with that. It's just I don't feel as good if I don't have all alcohol fuel in my car.

SENATOR STUHR: Okay. Senator Kremer.

SENATOR KREMER: Thank you, Matt. That's why it's called flex fuel because it's flexible to do whatever you want to do.

SENATOR CONNEALY: That's right.

SENATOR KREMER: So it's capped at \$400,000. Is that...

SENATOR CONNEALY: Yes.

SENATOR KREMER: I was wondering of the 30 or whatever many you said, how many of those have been...probably most of those have been in the last year or so, haven't they?

SENATOR CONNEALY: Well, Cubby's in Omaha has been there for a couple of years.

SENATOR KREMER: Yeah, there's been a few of them. Not very many.

SENATOR CONNEALY: We had a few here in Lincoln. They went away and they came back this last year.

SENATOR KREMER: Okay.

SENATOR CONNEALY: So the majority of the pumps in Nebraska have been just in the last year.

SENATOR KREMER: Do you feel like the cost has been the most...has deterred more from going that way?

SENATOR CONNEALY: Yeah, I suppose.

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SENATOR KREMER: I mean that's kind of the premise of this, I should think so.

SENATOR CONNEALY: That's right. That's the premise of it.

SENATOR STUHR: Okay. Thank you. Senator Louden.

SENATOR LOUDEN: Yeah, Senator Connealy. This is \$400,000 each year for the next four years?

SENATOR CONNEALY: Yes.

SENATOR LOUDEN: Well, if you'd notice on the little handout we have here, you've got Panhandle Coop out there in Scottsbluff, and they've put that in and I thought that cost them a half million bucks to put that in. Well, \$400,000 won't get very many stations in around, will it?

SENATOR CONNEALY: No, it won't. It won't do everyone who needs to happen, and it won't totally pay for the installations. But I believe that this is a good first step. The industry, I think, needs encouragement to do what I believe is also a money maker for them. As we move forward with a dramatic increase in production that we're going to see, we're going to have a more stable market that doesn't have the fluctuations that we're seeing right now, and as much of it is going to be a part of our fuel system that we need to support because I think people are going to demand it.

SENATOR LOUDEN: But I mean this amount of money...this would only be three or four stations a year at the most, if you're funding...if they apply for half of what it's costing them because usually when they do that, they have to go in and put in a pump and a separate tank and the whole bit. And that's...do you think you can do much good with \$400,000?

SENATOR CONNEALY: I believe that you can retrofit facilities for \$30,000, and I know that there will be installations that will be more expensive if they need to run the whole system itself. But this would be at least a first step. You know, if I had more money...if I thought I could do that, then I would do it also. Iowa initially talked about a \$5 million fund. They moved back down to, I

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think, a half million when they passed it.

SENATOR LOUDEN: Now if the other bill, LB 848, doesn't pass but this one's passed, there isn't enough money. If LB 848 passes and you can only have ethanol, then you can probably get by with it because then you can retrofit pumps, right?

SENATOR CONNEALY: Well, I don't know if that's right or not. I think there could be a demand for three grades of gas, even under the first bill, because of the need for an octane level. There is some small demand for a mid-grade gasoline. Right now, a mid-grade gasoline was actually introduced in most markets because of the introduction of ethanol. Where you didn't have ethanol, you usually have a regular grade and a higher grade and that's about it. But Nebraska and most places in the Midwest have kept a mid-grade gasoline in their marketing setup. So I think it depends upon how you market and where you are but I think we ought to add pumps if we don't have them or we ought to change pumps from one to another, as often gas stations have done in the last year. The majority of the 30 gasoline stations that added pumps took a premium pump that they weren't making very many sales off, and changed that over to an E-85 pump. They made that decision.

SENATOR LOUDEN: Now one last question, then. Do you have any problems with like Conoco or somebody putting in a station and then asking for a batch of this Nebraska money to help them change the station over to E-85?

SENATOR CONNEALY: No, I think that we have to help retailers and help the system get this infrastructure in Nebraska.

SENATOR LOUDEN: Even if it's...

SENATOR CONNEALY: So whoever it is, I believe...

SENATOR LOUDEN: Even if it's a multinational corporation that's...

SENATOR CONNEALY: Yes.

SENATOR LOUDEN: ...owned by the Arabs or somebody like that? You'd have no problem with that?

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SENATOR CONNEALY: I don't mind who has the infrastructure. I believe that the infrastructure needs to be built in Nebraska.

SENATOR LOUDEN: Okay. Thank you.

SENATOR STUHR: Okay. Senator Kremer.

SENATOR CONNEALY: Even people from western Nebraska, I'd let them do it, too. (Laughter)

SENATOR STUHR: Okay. Senator Kremer.

SENATOR KREMER: I'm sorry. I have one more question. In the last sentence here of the Statement of Intent, it talks about if it's not fully used one year it will be retained by the Department to carry out the provisions of the program. Does that mean it would be carried over to the next stretch so you would have more than \$400,000 the next year?

SENATOR CONNEALY: Um-hum. That's the way I read it.

SENATOR KREMER: Okay. That's...okay, thank you. That's all.

SENATOR CONNEALY: It may take a little while to get something started.

SENATOR KREMER: Okay. So it would be \$400,000 allocated for it and it could be carried over. Thank you.

SENATOR STUHR: Okay. Thank you. And you'll be around to close?

SENATOR CONNEALY: I have the next bill.

SENATOR STUHR: Okay. All right. Those wishing to testify in support, if you'd come towards the front. How many do we likely have? Looks like three, four? Okay. Those wishing to testify in opposition raise your hand. Okay. Let's go.

STEVE SORUM: Senator Stuhr and members, I will be brief. If I can, I have a brief story that I think kind of illustrates the situation here. My dad who...

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SENATOR STUHR: Did you spell your name?

STEVE SORUM: Oh, I'm sorry. Steve Sorum, S-o-r-u-m.

SENATOR STUHR: Thank you.

STEVE SORUM: My dad who arguably pays a little more attention to the ethanol business than many, by virtue of my job, discovered the other day that he has an FFV and has had now for four years. Had no clue that he had one. There are 40,000 of these vehicles in the state. I would venture to say that 90 percent of the people that have them have no clue that their driving an FFV. There are 28 stations to service those 40,000 vehicles, and those numbers just don't work out. And therein lies the problem, and I think the reasoning behind Senator Connealy's bill. It's a fact that for each 5 percent of the market that E-85 might capture, again \$76 million would remain in the state for each 5 percent of gasoline displaced by ethanol; 10 percent we're up to, what, \$152 million. These are significant energy dollars that might very easily stay in Nebraska with this bill and the expansion of the E-85 industry, that can take place. Thank you, Senator.

SENATOR STUHR: Okay, thank you, Steve. Are there questions for Mr. Sorum? Thank you, very much. Next proponent? Welcome.

TIM KEIGHER: Good afternoon, Senator Stuhr, members of the Committee. My name is Tim Keigher. It's K-e-i-g-h-e-r. I appear before you today as a proponent of LB 1186 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. I have also been asked to state that the Nebraska Chamber of Commerce is also a proponent of this and was not able to make it today. I guess, simply, we support this because it's kind of the chicken and the egg thing. There are becoming more flex fuel vehicles out there. I wouldn't want to say that ten times fast. But my members are reluctant to put this product in because of the cost, and what utilization are they going to get? Several of my members have put this in and several of them have seen some good success and that they're selling more E-85 than they are premium, while others are reluctant to spend the money to put the tank in if they are going to require additional

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tankage or convert an existing premium tank to E-85. So for that reason, we do support this bill.

SENATOR STUHR: Okay. Thank you. Senator McDonald.

SENATOR McDONALD: In listening to the President's State of the Union, whatever, he spoke about us being less dependent on foreign oil. Do you think that at some point in the time the federal government will subsidize our car industry to have them produce more vehicles that run on E-85, or do you think they're just doing it on their own?

TIM KEIGHER: I guess anything is possible. I don't know if I could comment on that intelligently or not.

SENATOR McDONALD: Oh, okay.

SENATOR STUHR: Are there any other questions? I know you represent the Petroleum Marketers, right?

TIM KEIGHER: That's correct.

SENATOR STUHR: And so how many of those units do you represent? I mean are there...

TIM KEIGHER: Well, there are about 1,800 ...over 1,800 retail facilities that sell gasoline in the state. I got that number from the Department of Revenue. How many of them are actually represented by our organization, I don't know because, as an example, Bosselman Energy owns 40 locations but Bosselman Energy is a member of our organization once, so...I estimate that it's probably well over 1,200.

SENATOR STUHR: Okay. All right. Any other questions? If not, thank you for coming today. Other proponents? Welcome.

RANDY UHRMACHER: (Exhibit 9) Senator Stuhr, members of the Natural Resource Committee, I'm Randy Uhrmacher. R-a-n-d-y U-h-r-m-a-c-h-e-r. I'm a farmer from Juniata, and on behalf of the Nebraska Corn Growers Association, I'd like to extend our support for LB 1186. Our organization thinks this bill will provide a necessary step in development of our state's and nation's move to renewable fuel economy. I believe the

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Committee is aware of the tremendous success of the ethanol industry in the state of Nebraska and our country. The acceptance of E-10 and E-85 fuels has been widespread as a result of several factors over the past two years. If Nebraska is to continue as a leader in ethanol production and consumption, we need to invest to the next level of the industry. The development of the fuel availability and number of flex fuels has steadily expanded in the past decade. The Nebraska and National Corn Growers believed in a future of E-85 over 10 years ago by cost-sharing the installation of the first pump in Lincoln. Since this time, the industry has grown and it's now at a crossroads. The cost of petroleum-based products has resulted in a major shift and increased interest in E-85 fuels over the past two years. This shift and improvement of technology from the automobile manufacturers has resulted in a broad range of flex fuel vehicles now available. General Motors and Ford have not only placed high priority on production of flex fuel vehicles, but now have built a national advertising program to promote their sales and acceptance. As the number of flex fuel vehicles continue to grow, we believe the need to provide an infrastructure to support these vehicles should be the next focus of investment. And the recent price inconsistencies can be, in many ways, traced to the lack of the large developed marketing network, as in any form of product marketing, the larger the infrastructure and network, the more competitively priced the product. We encourage the Committee to advance LB 1186. Is there any questions?

SENATOR STUHR: Are there questions? Thank you very much for being here today. Other proponents? And I do have a letter of support from the Nebraska Farm Bureau Federation that will be entered in the record in support of LB 1186. (Exhibit 10) Welcome.

JOHN HANSEN: Vice Chairman Stuhr, members of the Committee, again for the record my name is John K. Hansen, H-a-n-s-e-n. I am president of the Nebraska Farmers Union. I'm here before you today as their president and also their lobbyist. We are in strong support of LB 1186. It is a small carrot but a useful one that is, in our view, the next level of ethanol consumption. It's where the future is going. Anything that we can do as a state to help move in that direction is a positive. And I would say that this last

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year we sponsored a booth on renewable energy at the Nebraska State Fair and also at Husker Harvest Days. And I was able to be there for most of the State Fair, and I was really struck at the amount of consumer interest in renewable energy overall, but also we had all the E-85 information and the number of places in Nebraska where you could buy it, and a number of folks stopped in and said, you know, we would like to have the opportunity to use this product but it's not available in my community. And a lot of them knew where the closest place was and it was a long ways from where they live. And so I believe that there is an interest on the part of the public, and I believe there's an awareness on the part of the public that we really do need to do things that reduce our dependence on foreign oil and that we ought to be moving more toward renewable energy wherever we can on whatever front. So if I had my druthers, we'd put a lot more money in here but we wouldn't want to do anything to inhibit the state of Nebraska's ability to provide property tax relief on the other hand. So this is a reasonable carrot. Thank you. I'd be glad to...

SENATOR STUHR: All right.

JOHN HANSEN: ...answer any questions on the off chance that I could.

SENATOR STUHR: Okay. Thank you, John. Are there questions for Mr. Hansen? None. Thank you for being with us.

JOHN HANSEN: You bet. Thank you.

SENATOR STUHR: Are there any other proponents for the bill? Are there opponents...those wishing to testify in opposition? Those wishing to testify in a neutral capacity? Senator Connealy.

SENATOR CONNEALY: Thank you, Senator Stuhr.

SENATOR STUHR: Are you wishing to close on...

SENATOR CONNEALY: I'm...just to close for questions, if you'd like.

SENATOR STUHR: Okay. We have one question. We were wondering if you might be interested in supporting an

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amendment that would limit the amount to \$15,000, or is that...

SENATOR CONNEALY: Yeah, I'd be able to do that.

SENATOR STUHR: ...something that we might be able to work with.

SENATOR CONNEALY: You bet.

SENATOR STUHR: Okay. All right. Thank you. All right, that closes the hearing on LB 1186, and we will open the hearing on LB 1187.

LB 1187

SENATOR STUHR: Welcome, Senator Connealy.

SENATOR CONNEALY: (Exhibit 11) Thank you, Senator Stuhr. Once again, I am Matt Connealy to open on LB 1187. This is related to the past bill. As we talked about how we increase E-85 consumption, I came across what I would call artificial barriers to the expansion of E-85 in Nebraska. The intent of LB 1187 is to allow retailers to purchase alternate fuel from other retailers or other sources. It also intends to allow retailers to sell alternate fuel in their facilities. The amendment I passed out and you probably have in your books, I think, would clarify alternative fuel to be ethanol. It was brought to our attention that this amendment was needed. I introduced the bill as a result of hearing stories of petroleum marketers who were not allowed to sell E-85 under the canopy of their franchise. Their company said that if you have "x" brand fuel on your canopy, you cannot sell E-85 under that canopy. And it's a growing problem as this expands across the country that we need to make sure that the accessibility is for a retailer who is an affiliate with a major company, that that major company won't stop that franchisee from selling this fuel in their facilities. And we also heard stories of how as a retailer was starting to look at E-85, the company that supplied them gasoline said, you can't buy that from the ethanol producer across the street or in your state. You have to buy that ethanol from us, and we're going to charge you another 50 cents more for it. And so

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we've tried to open that up so that, especially in a state that's going to have an abundant amount of production, that that ought to come from Nebraska. So we also put in that you could buy from another retailer.

SENATOR STUHR: Okay. Are there questions for Senator Connealy? Senator Louden.

SENATOR LOUDEN: Yeah, Senator Connealy. Do you think this would really work? I mean these major oil companies that own those things and they more or less ran it out. I mean, I've seen them in our area that these people owned those stations at one time but then usually British Petroleum come in and redid the whole thing and everything, and I mean, they pretty well call the shots. I mean, we can't just pass a law and change that to make them do it, can we? They just won't sell the fuel there.

SENATOR CONNEALY: If the petroleum company owns the facility, they probably won't ever sell E-85 if they don't have any other access and way to make money. If it's a franchisee, I think that we can declare here in Nebraska that a franchise agreement couldn't have that stipulation in it, and that we could say that the next time you sign a franchise agreement, that it is not legal in Nebraska to have that line in the contract that you have to follow this...that you'll also be able to sell Ed-85.

SENATOR LOUDEN: Now can they go in there and then just...I mean, would that person then perhaps lose their franchise?

SENATOR CONNEALY: Well, it would not be anyone else that would be able to use that franchise and not...and sign that in Nebraska. Of course, it hasn't been tested in court yet but I think also we need to make sure that we watch that oftentimes our competition is who's going to deliver our product. Someone who gets their total supply from someplace else is going to decide what's sold in our state. And I think that we ought to call for a wider open playing field for ethanol that's produced right here.

SENATOR LOUDEN: Well, I...yeah, I'm just kind of concerned that some of these smaller operations around, you know, that buy their fuel on the open market, or perhaps they're buying it from a major oil company or something like that, or have

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some type of a edge-wise franchise, as I would call it, I mean, it would just put them out of business. They wouldn't be able to get their fuel from that particular supplier. I guess that would be my concern.

SENATOR CONNEALY: This would apply to everybody in the state.

SENATOR LOUDEN: Yeah. Okay.

SENATOR STUHR: Okay. Any other questions? If not, thank you.

SENATOR CONNEALY: Thank you.

SENATOR STUHR: You're going to stay to close?

SENATOR CONNEALY: I am. I will.

SENATOR STUHR: All right. Those wishing to testify in support of LB 1187? Welcome.

TIM KEIGHER: Good afternoon, Senator Stuhr. My name is Tim Keigher. It's K-e-i-g-h-e-r. I appear before you today in support of LB 1187 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. I guess our whole thing with this bill is flexibility, allowing my members the flexibility to place E-85 where they feel is appropriate on their property. And also the flexibility to buy the E-85 from whichever supplier they would like. To try to answer a question you had, Senator Louden, the major oil companies do not own any of the stations in the state of Nebraska. They're all owned by independent marketers. Now there is one grey area, and that is the Flying J Corporation. Flying J is a joint venture between Conoco and Flying J, so I don't know how you want to count that one but like Whitehead Oil, those stations are owned by Mark and Bus Whitehead. They do have some dealer accounts, so not all of the Phillips stations in the Lincoln market are owned by Whitehead Oil but several of them are also supplied by Whitehead Oil. I guess that's pretty much my testimony is we just feel that we should have the flexibility to put this where we want on our property and not be dictated by a contract. So with that I would be happy to answer any questions.

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SENATOR STUHR: Okay. Are there any questions for Tim? This is almost a record day to have support of two bills. (Laughter)

TIM KEIGHER: I got tired of Julia beating me over the head.

SENATOR STUHR: Excuse me, but I had to say that. Senator Louden.

SENATOR LOUDEN: Well, who owns those British Petroleum stations that are going up all over the western end of the state? Do the guys themselves own them or British Petroleum?

TIM KEIGHER: The individuals, yes.

SENATOR LOUDEN: How come, then, as soon as British Petroleum gets them, the price of fuel went up on them?

TIM KEIGHER: Well, it depends on who the marketer is that owns them, what their pricing philosophy is. It also depends on what price that individual station is paying for the fuel from either the distributor, if they're buying through a distributor, or directly from BP.

SENATOR LOUDEN: Okay, but BP doesn't own those facilities?

TIM KEIGHER: To my knowledge, no.

SENATOR LOUDEN: Okay. How about the Conoco facilities then out there?

TIM KEIGHER: To my knowledge, other than the Flying J Corporation, every retail gasoline facility owned in the state is owned by individual marketers and their franchise agreements. Some of them are owned by people from Kansas or Iowa, but none of them are owned by a major oil companies directly.

SENATOR LOUDEN: By the major oil companies that's got their sign up on the...

TIM KEIGHER: Right. It's all franchise agreements.

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SENATOR LOUDEN: Okay. Thank you.

TIM KEIGHER: Um-hum.

SENATOR STUHR: Are there any other questions? Thank you...

TIM KEIGHER: Thank you.

SENATOR STUHR: ...for coming today. Next proponent?
Welcome.

STEVE SORUM: Thank you, Senator Stuhr and members. Steve Sorum, S-o-r-u-m, Nebraska Ethanol Board. My testimony would be largely redundant. One point I would make is that I spoke with a gasoline dealer here in town today. Their concern is that their supply agreements, as a part of this franchise agreement, limits them to buying ethanol or any other product that they're adding to their product line from that supplier. As such, in this case it was a Phillips dealer. Phillips tells the local gasoline station, yes, you can sell E-10 or you can sell E-85; however, you have to buy the ethanol from us. We will fix that price. And that price tends to be the spot price, which if one understands the way ethanol is marketed, is typically 20, 30, or as much as 50 or 60 cents higher than the contract price at which that ethanol was purchased by the oil company. That puts the retailer at a huge disadvantage, and that is the very thing that this bill attempts to get to is to give that local dealer the freedom to go out and buy ethanol from whomever he or she chooses at a price that is more reflective of the true market price rather than the spot price, which is not indicative of what the product is moving for. So with that, I would reiterate the Ethanol Board's support of this bill, and I thank you very much.

SENATOR STUHR: Okay. Thank you. Are there questions for Steve? If not, thank you very much for coming today. Other proponents?

JOHN HANSEN: Again, Vice Chair Stuhr and members of the Committee, for the record my name is John K. Hansen. It is still John K. Hansen. It is still spelled H-a-n-s-e-n. It is Friday afternoon. My remarks will be short. This bill is a very simple bill, yet I think it would have a very positive impact on the dealer opportunity to access more

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product, more product officially, and provide more competition in the marketplace. I do have some experience as a former Phillips 66 dealer myself in my former life, and would tell you that the franchise agreements will yank your chain just about as much as they think they can get away with. And so I salute the Petroleum Marketers for supporting this bill. It does give them more choice, more opportunity, and I think it's an appropriate for the state of Nebraska for us to say that in our state, here's how we do business. So with that, I would close and be glad to answer any questions if I could.

SENATOR STUHR: Are there any questions for Mr. Hansen? None. Thank you...

JOHN HANSEN: Thank you.

SENATOR STUHR: ...for being here today. Other proponents? Welcome, Senator.

LORAN SCHMIT: Senator Stuhr, members of the Committee, my name is Loran Schmit, and I appreciate this opportunity to testify today in support of the bill. You've heard all the arguments that I concur with, and I believe that the market would be well represented by passage of the bill. Any questions for me to answer?

SENATOR STUHR: Okay. Are there any questions of Mr. Schmit? None. Thank you.

LORAN SCHMIT: Thank you.

SENATOR STUHR: Thank you for being here. Are there other proponents? Those wishing to testify in opposition? Welcome.

GORDON KISSEL: I'm filling in for Tim Keigher on the opposition side today. (Laughter) It just wouldn't be right, would it?

SENATOR STUHR: I expected as much.

GORDON KISSEL: Senator Stuhr, my name is Gordon Kissel, G-o-r-d-o-n K-i-s-s-e-l, registered lobbyist for the American Petroleum Institute in opposition to LB 1187. The

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reasons for were in the questions that Senator Louden had. We do think it is a private contract, business contract. I would just say that we understand their concerns when the marketers come in and support this. We understand they want flexibility, but there are some benefits that they gain from having those kind of relationships with us, and we would continue to encourage them to have that. I would just ask you, would you be as supportive or as opposed to the bill if I happened to represent the McDonald's franchises of hamburgers and we had a dealer come in a say, we don't want to sell round hamburgers anymore? We want to sell the square ones that Wendy's has. There are reasons for those kind of stipulations in our agreements with the local franchises, and we would still oppose the bill.

SENATOR STUHR: Okay. Thank you. Are there questions of Mr. Kissel? If not, thank you for coming today.

GORDON KISSEL: Thank you.

SENATOR STUHR: Are there any others wishing to testify in opposition? Those wishing to testify in a neutral capacity? Senator Connealy, would you like to close?

SENATOR CONNEALY: Thank you, Senator Stuhr and members. I appreciate your attention to these ethanol issues on a Friday afternoon. We want to increase the consumption of a Nebraska-grown product that's good for our economy and good for our environment at the same time. I would close and ask for any questions.

SENATOR STUHR: Are there questions? Senator Kremer.

SENATOR KREMER: I have one comment. We as a committee was in northern Nebraska, and we went down the Niobrara River last year, floating downstream. And I was just thinking some of our opposition here has been going upstream, paddling so hard, and I see them paddling a little less hard but it would be nice if they're just turn their boat around and just float downstream. They would enjoy it so much. (Laughter)

SENATOR CONNEALY: When we offer them a tax break and this and that, it brings them around, so that's good.

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SENATOR STUHR: Okay. Oh. Senator Louden.

SENATOR LOUDEN: Yeah, I'd like to make one comment, Senator Connealy. I'm for ethanol. And my concern is that are we going to get there anyway with a lot of legislation? And do we have to be careful on some of this legislation we pass that we don't hurt some of our small suppliers out in our rural areas that perhaps have two or three stations up and down in a couple of three towns, or something like that? So that's kind of where my concern is. I think ethanol is a good thing. I would like to see ethanol plants to be a price driver, so that they're not a price follower. I think that's their niche, they should be, is to raise the price of corn not just to get rid of corn that we can't sell someplace else. So I thank you for bringing this forward. I'll support what I can of it.

SENATOR CONNEALY: Thank you, Senator Louden.

SENATOR STUHR: Yes, thank you, Matt for...thank you, Senator, for bringing these bills. You've been working on ethanol with many of us for years...

SENATOR CONNEALY: That's right.

SENATOR STUHR: ...so we'll continue to do so.

SENATOR CONNEALY: Thank you.

SENATOR STUHR: So thank you. With that, that closes the hearing on LB 1187.