

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

Agriculture Committee
February 27, 2007

[LB46 LB69 LB626]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 27, 2007, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conduct a public hearing on LB46, LB69, and LB626. Senators present: Philip Erdman, Chairperson; Annette Dubas, Vice Chairperson; Ernie Chambers; Merton "Cap" Dierks; Russ Karpisek; Vickie McDonald; Don Preister; and Norman Wallman. Senators absent: None.

SENATOR ERDMAN: Good afternoon, ladies and gentlemen. Welcome to the Ag Committee. We are going to hold our final public hearing of the session for legislative bills. And we will have a separate hearing that we'll be announcing later. Let me introduce the members of the committee, whether they're here or not. And when they arrive...there are other bills that are being introduced in front of other committees and they may be at those events. So we want to make sure that you're aware that their lack of attendance is not reflective of their interest, but simply of other obligations that they may have as well. I'll start with Senator Norm Wallman. Senator Wallman is from Cortland, Nebraska; next to him will be Senator Vickie McDonald. Senator McDonald is from St. Paul; next to Senator McDonald will be Senator Russ Karpisek, and Russ is from Wilber, Nebraska. Our Vice Chair of our committee is Annette Dubas, she's from Fullerton. Committee clerk is Ms. Linda Dicken; she will be the one that will be responsible for making sure that we get your name entered correctly and any exhibits that you have, and those will be distributed by our pages. We have Steve Scharf; Steve is a political science major, from Lincoln, studying at the University of Nebraska - Lincoln; and Erin Frank, I almost did it, Erin. Erin Frank, from Bassett, she's also studying at the University of Nebraska - Lincoln, in environmental studies. To my right is Rick Leonard; Rick is our research analyst for the Ag Committee. Senator Cap Dierks is next to Rick. Senator Dierks is from Ewing, Nebraska. Senator Don Preister is from Omaha, Nebraska. And last, but definitely not least, is Senator Chambers from Omaha. And we will be your Ag Committee for the next two years. As you are following the proceedings, if you plan to testify, there are sign-in sheets on the corner of the testifier stand, near Senator Wallman. If you can have those filled out ahead of time, that will assist us in our deliberations. Also, if you have a cell phone, please make sure that you have either turned that off, or turn the ringer so that it doesn't make an audible noise as to avoid the interruption with the testifiers and to make it a more enjoyable opportunity for all of us. We'd ask that you have no public displays of support. Don't do the wave or other such things and that will help to make sure that our committee process is one that everyone can feel comfortable in, or at least as comfortable as you want to be in front of an Ag Committee. When you go to testify on a bill, when you come up to the testifier stand, please make sure that you state and spell your name for us, in addition to filing your paper in the appropriate receptacle there, that way we get that into the record as well. We may recognize you from bill to bill, but as you come up on each individual bill, we'll need you to reintroduce yourself as the transcribers don't have the opportunity to

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

Agriculture Committee
February 27, 2007

video this and will need to know who you are based on your testimony every time you come up. If you don't wish to testify, there will be a sheet that we'll send around. You can feel free to sign that. Only sign that if you plan not to come forward, otherwise there will be duplication of your position that is unnecessary. And if you do again have handout material, Erin or Steve would be happy to get that for you and pass that out to the committee members. The order of the day will be as posted. We will start actually in numerical order. We'll start with LB46, move to LB69, and then end the day with LB626. With that, I will recognize Senator Carol Hudkins to introduce LB46.

SENATOR HUDKINS: Good afternoon, Senator Erdman and members of the Ag Committee. I am Senator Carol Hudkins, spelled H-u-d-k-i-n-s. Today I would offer for your consideration LB46. LB46 implements a fee on the growers of \$20 a ton for the sale of their grapes in the state of Nebraska. The dollars would be used to increase the funding to the Grape and Wine Board for use in promotion and research of grape and wines in the state of Nebraska. Currently, there is a fee on gallons of juice produced, paid by the wineries, but the revenue generated is not enough to fund the board in an amount consistent with the duties of the board. By paying a fee on the grapes, and the growers are willing to do this, they're willing to put a fee paid by themselves to further their product, the combined revenue is anticipated to meet at least a minimum amount that is needed by the board to promote grape and wine production and consumption. Last year and this year and for a number of years, actually, I have been working with the Wine and Grape Growers Association to try and develop an adequate funding mechanism for the Wine and Grape Board to finance research. The promotion and product development would also be funded. Under the current system, there are just not enough funds available to adequately finance the types of research and promotion to help drive the industry onto future growth. While the fee will not increase the funding a large amount, it is an amount that will make a difference. If you read Monday's Omaha World-Herald, the front page, main headline read "Small loans, big dividends." The article was about microloans and the large benefit that can be derived by small businesses from these types of loans. As Rose Jaspersen, director of the Nebraska Microenterprise Partnership Fund, said in the article, even \$1,000 can make a huge difference. That is the tack that LB46 takes regarding finding funding for the Wine and Grape Board. And at this stage of the industry, this money can pay big dividends. Thank you for your time. And I would urge you to advance LB46 onto General File. I would take any questions. [LB46]

SENATOR ERDMAN: Thank you, Senator Hudkins. Any questions? Senator McDonald. [LB46]

SENATOR McDONALD: So right now the wineries pay a fee? [LB46]

SENATOR HUDKINS: The wineries are paying a fee for, I think it's \$20 for every 160 gallons. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR McDONALD: But the grape producers don't contribute to that? They don't (inaudible)? [LB46]

SENATOR HUDKINS: Not to that one, the wineries are. But this one, the growers themselves would...they wouldn't actually pay the fee; it would just be deducted from the amount that the wineries pay them. And then the wineries would forward that money on. So it wouldn't...I mean, yes, the growers are paying it, but the wineries will be the intermediaries, if you will. [LB46]

SENATOR McDONALD: And then this goes for promotion? [LB46]

SENATOR HUDKINS: Funding, yes, funding for promotion and research. [LB46]

SENATOR McDONALD: Okay. And also you say that the grape producers are willing to pay this. [LB46]

SENATOR HUDKINS: Yes. [LB46]

SENATOR McDONALD: Do we have to have a state statute to have them pay it? Could they pay it without the state statute? Say they just voluntarily wanted to do that? [LB46]

SENATOR HUDKINS: You know, possibly, because I think there is somewhere in the language that says, any gifts or bequeaths could be used for this fund. But we want it to be that all of the growers will be responsible. We don't want two, or three, or half a dozen growers to pay it, and the rest are saying, well, I don't have to. We want them all to have to. But they're willing to do it as a group. [LB46]

SENATOR McDONALD: Even though they would all benefit, even if...which is fairer. [LB46]

SENATOR HUDKINS: Yeah. And if they all pay, they all benefit. [LB46]

SENATOR McDONALD: Okay, thank you. [LB46]

SENATOR ERDMAN: Thank you, Senator McDonald. Further questions? Senator Chambers. [LB46]

SENATOR CHAMBERS: Senator Hudkins, it's estimated that this bill will raise about \$7,000. So it seems the board is really kind of operating on a shoestring, more or less. [LB46]

SENATOR HUDKINS: They are, yes. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR CHAMBERS: You know, you've convinced me. You know how much I think of you, so I want to make a donation. (Laughter) [LB46]

SENATOR HUDKINS: Well, this will go to the Department of Revenue. They will in turn forward it on to the Grape and Wine Board Promotion Fund. Thank you. [LB46]

SENATOR CHAMBERS: Okay, I want a receipt from everybody who touches it. (Laughter) [LB46]

SENATOR ERDMAN: Let the record show that Senator Chambers gracefully donated, I believe, is that a quarter? [LB46]

SENATOR HUDKINS: Twenty-five cents, yes. Every 25 cents helps. [LB46]

SENATOR ERDMAN: Very good. Did it have Chimney Rock on the back, or was it... [LB46]

SENATOR HUDKINS: No, it's an old one. [LB46]

SENATOR CHAMBERS: From an old guy. (Laughter) [LB46]

SENATOR ERDMAN : Well, it's still the thought that matters and counts. So thank you, Senator Chambers. Senator Dierks. [LB46]

SENATOR DIERKS: I'd be willing to bet that that's the first quarter that Senator Chambers ever gave to the liquor industry. What do you bet? (Laughter) [LB46]

SENATOR CHAMBERS: I'm not giving it to the industry, I'm giving it to help the growers make some money. [LB46]

SENATOR DIERKS: Senator Hudkins, I noticed that your fiscal note talks about 350, some place I saw it, bushels, is that right, grapes? [LB46]

SENATOR HUDKINS: Tons. [LB46]

SENATOR DIERKS: Tons, I'm sorry. If you...I know they don't measure arbors this way, but how many dollars an acre...how many bushels an acre would that be? Oh, just a wild guess. [LB46]

SENATOR HUDKINS: Could I ask you to ask that question again to Mr. Ballard, when he comes up and testifies. He knows. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR DIERKS: Okay. [LB46]

SENATOR ERDMAN: Or you're hoping he knows. [LB46]

SENATOR HUDKINS: I'm hoping he knows. [LB46]

SENATOR DIERKS: I drove through from Seattle, Washington to...I think we drove down to Cheyenne, Wyoming, one time, through Idaho. The grape fields out there are humongous. I mean there's like sections of grapes. I just thought if I could get a job picking grapes out there, that would be a pretty decent full-time job for awhile. [LB46]

SENATOR HUDKINS: And all you can eat. [LB46]

SENATOR DIERKS: Yeah. Thank you. [LB46]

SENATOR ERDMAN: Thank you, Senator Dierks. Senator Preister. [LB46]

SENATOR PREISTER: The bill just provides for the funding, but not a mechanism for collecting. So you're saying that that would be reduced from the amount that would be paid by the wineries to the grape growers. And then they would just automatically remit it with their payments? Is that how the... [LB46]

SENATOR HUDKINS: No, no, not exactly. The grape growers would bring in their grapes. And the growers then, the producers will pay to the Department of Revenue \$20 per ton of grapes sold. But rather than having let's say that James Arthur Vineyard has, I don't know, 15 growers. Rather than having 15 checks go into the Department of Revenue, the proper paperwork will be done, of course. And I'm assuming that then James Arthur, or whatever winery it is, will just deduct from that grower's check the \$20 per ton, and remit that all to the Department of Revenue at one time, rather than having, you know, all these small checks coming in and trying to keep track. [LB46]

SENATOR PREISTER: Okay. So there wouldn't be any state enforcement or anything, or any separate mechanism set up. They would just be required to do it, we'd expect them to do it, and then it could be simplified in the process you described,... [LB46]

SENATOR HUDKINS: Yes. [LB46]

SENATOR PREISTER: ...in mailing it, so you don't have so many checks coming in? [LB46]

SENATOR HUDKINS: Yes. [LB46]

SENATOR PREISTER: Okay. Thank you. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Thank you, Senator Preister. Further questions? I don't see any. I guess the only question I would have for you, Senator Hudkins, is that we have an estimate of there's 350 growers in the state. How do we know how many growers we have? And what is the mechanism in place, in the event that somebody would sell grapes to a winery that's outside of the state? How would we...I don't know if that happens now, but in my area of the state we have individuals that sell corn and other commodities across state lines, Wyoming and Colorado. I'm curious how you see this mechanism apply? I think what you're trying to accomplish is similar to say a checkoff idea. And I'm just making sure that as you go forward that we have kind of an understanding of how this would work. [LB46]

SENATOR HUDKINS: Well, if you reread the language of the bill, Senator Erdman, on line 3 it says, each Nebraska winery shall pay. If a grower chooses to sell his grapes to a winery outside of the state of Nebraska then, I guess, we don't get that money, tonnage. [LB46]

SENATOR ERDMAN: And just so that we're both clear, the language that you're referring to is the fee that's paid by the wineries. Your bill creates a new fee, and that burden is on the grape producer. [LB46]

SENATOR HUDKINS: Yes. [LB46]

SENATOR ERDMAN: So that's in line 5 and it still... [LB46]

SENATOR HUDKINS: But it says...all right, you're right, go ahead. [LB46]

SENATOR ERDMAN: It still states that, each grape producer shall pay the \$20. Under your example, or how you would envision this working, the wineries in Nebraska would pay this as a checkoff, similar to say an elevator would on grain and other items. I guess, the example that I want to know is, how does that process work? Because the grape producer has the burden, would they have to...I'm assuming there's other mechanisms in place for other commodities. They just want to make sure that we're not missing what your intent is and that each producer pay it, not the wineries, which is a separate provision. [LB46]

SENATOR HUDKINS: Yes, absolutely. And the producers will be paying it. But in the example that you gave, that could be a loophole. And if the committee thinks that that needs to be closed, I would have no problem with that. [LB46]

SENATOR ERDMAN: Okay. [LB46]

SENATOR HUDKINS: Or if you, you know, maybe some wineries will just not withhold

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

Agriculture Committee
February 27, 2007

the money. They will just go ahead and say, okay, all of you growers, go ahead and pay this fee. This is the tonnage that you harvested that went through our facility, this is the amount that you owe to the Department of Revenue. So perhaps some of the wineries will do it that way. I don't know how they're all going to handle it. [LB46]

SENATOR ERDMAN: Okay. Any further questions for Senator Hudkins? I see none. [LB46]

SENATOR HUDKINS: All right, thank you. [LB46]

SENATOR ERDMAN: Thank you, ma'am. Can I see a show of hands of those who wish to testify in support of LB46? I see two. Can I see a show of hands of those who wish to testify in opposition? I see none. Anyone in a neutral position? I see none. Okay. Proponent testimony, please come forward. [LB46]

JIM BALLARD: Senator Erdman, senators, my name is Jim Ballard. I'm with James Arthur Vineyards, representing the Nebraska Winery and Grape Growers Association today. And the spelling of the last name is B-a-l-l-a-r-d. And just to reiterate some of what Senator Hudkins said, this is basically a self-imposed fee that didn't come around over night. This has taken some time and thought. And actually, as a board of the association, we sent out this idea to all of our growers to get feedback. And the few that we did hear from, originally this was a \$10 fee; the few that we did hear from said, why isn't it more? So we raised it to \$20. So there wasn't any opposition to assess this to growers at the time when we brought this idea about. This has probably been in the process for about a year and a half to two years now. So the nice thing about this, and even though it's not a great amount of money, and we'll take any nickels, pennies, dimes that we can get, Senator Chambers, but it does make a difference. And one of the things we're trying to do is to be self-sustaining as an industry. We're really working towards that. And even though it may only be \$7,000 this year, that could grow as the industry grows as well. As Senator Hudkins says, we as wineries already pay the \$20 per 160 gallons, and that has grown over the past few years. And this is a way that the growers can also be involved, and all that money comes back to promote the industry through research, through promotion to really encourage the grape industry here in Nebraska. So having said that, I'll answer any questions. I know that Senator Dierks had one I can sure answer, but any others that you would like... [LB46]

SENATOR ERDMAN: Thank you, Jim. Any questions for Mr. Ballard? Senator Dierks. [LB46]

SENATOR DIERKS: You have the answer to the... [LB46]

JIM BALLARD: In a good growing season, and we're farmers out there, so some years are better than others, but what we usually say, on average is 4 to 5 tons per acre. You

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

Agriculture Committee
February 27, 2007

can get anywhere from 2 to...we had some...one variety, this year, produce about 8 tons an acre. So on average, about 4 to 5 tons an acre. The average that is being paid out right now across the state is roughly about \$1,000 per ton. [LB46]

SENATOR DIERKS: How do you pick grapes? [LB46]

JIM BALLARD: Everything is done by hand. There are mechanized systems. There are really no vineyards in Nebraska large enough right now to justify that. So we use a lot of high school, at least in our winery we use a lot of high school and college kids to help us pick grapes, and everything is done by hand. [LB46]

SENATOR DIERKS: So they carry a basket up with them, or what do they do? [LB46]

JIM BALLARD: Five gallon buckets, and we load them into five gallon buckets and weigh them up in the field and bring them in for crushing and pressing. [LB46]

SENATOR DIERKS: Interesting. Thank you. [LB46]

SENATOR ERDMAN: Thank you, Senator Dierks. Senator McDonald. [LB46]

SENATOR McDONALD: Do you hire them also to crush the grapes? You know, to stomp around in them, like "I Love Lucy"? (Laughter) [LB46]

JIM BALLARD: You've been watching too many "I Love Lucy" reruns, haven't you. (Laugh) I do, actually on the back pad I have about four seasonal people that help me out, a couple of them are high school kids, one is a stay-at-home dad, and one is retired from Goodyear. And they give me a hand during the harvest season, and we put in, as you all know harvest hours are long, so we put in 16, 18 hours a day, and I rotate them through on shifts. So a couple kids in college in the past, high schools and some part-time help. [LB46]

SENATOR ERDMAN: Thank you, Senator McDonald. Senator Preister. [LB46]

SENATOR PREISTER: Mr. Ballard, I think you said that all of the growers were 350 in number? Or somebody said that. Is that an approximate number of growers in the state? [LB46]

JIM BALLARD: I think it was about 350 acres of grapes. [LB46]

SENATOR PREISTER: Okay. [LB46]

JIM BALLARD: Probably...and that's one, we don't have a real good mechanism. And we've tried to do this through the university and Department of Ag to get a good feel on

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

Agriculture Committee
February 27, 2007

how many growers are out there and how many actual acres we have. That's our best guesstimate, and the latest survey was about 350 acres, roughly 100 and some growers, give or take. And that's one area we don't...in terms of the gallonage tax we pay, we have to report all of that, not only to the Department of Ag, for the money to flow through the Grape and Wine Board, but also to the Liquor Control. So we know...I can tell you pretty much, not right in front of me, but fairly quickly how many gallons were produced in the state of Nebraska. But we couldn't tell you very well how many acres there are, or how many tons were crushed. By doing this and having this fee, that will probably give us a better idea of how many tons of grapes we actually crush in a year. [LB46]

SENATOR PREISTER: Sure. And how many are in your association? [LB46]

JIM BALLARD: We have about 250 members in our association, because there are some people that don't even grow grapes that are members. But roughly, 18 wineries right now, up and running, with about 3 more in the wings. Like I said, over...I know, just our winery we have 22 contracted growers just for our winery, but roughly 100-plus growers out there. And about 200, 250 members in the association last time we checked. [LB46]

SENATOR PREISTER: Good, thank you. [LB46]

JIM BALLARD: You're welcome. [LB46]

SENATOR ERDMAN: Thank you, Senator Preister. Senator Dubas. [LB46]

SENATOR DUBAS: Thank you, Senator Erdman. Thank you for all this interesting information. Are there any other markets, outside of the winery industry, that are available to growers? [LB46]

JIM BALLARD: Right now the primary market are wineries. There are a couple jam and jelly folks starting up that are doing wonderful; one fairly close to us that we actually have made...we sell their jams and jellies in our store. It's made from Nebraska grapes. I know, up by Valentine, there's a gentleman that wants to start a vinegar plant, and he's been working on that. So there's an option...opportunity there as well. So there's also the table grape market. I firmly believe there's a market out there for table grapes, it's a limited time of the year because they're fresh, and we only have a few weeks out of the year that we pick those. And we haven't had a good...you know, done enough research to make sure that we could maybe store those grapes. But...and it's very...everything is very labor intensive. And table grapes, as you know, a wine grape doesn't have to be the prettiest in the world to turn it into juice or wine. But a table grape has to be perfect. And I think there's an opportunity for table grapes out there in farmers markets, and local grocery stores. So there are other opportunities for grapes in Nebraska. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR DUBAS: You did sell at the farmers market some, didn't you? [LB46]

JIM BALLARD: We did some table grapes at the farmers market this year. And I've also sold table grapes to some of the local grocery stores in town, and they are gone like that. I mean compared to...I should be careful what I say. Compared to what you find on the shelves in grocery stores now, these grapes are incredible, seedless table grapes. [LB46]

SENATOR DUBAS: I did buy some of your grapes, so yes. So is that something that you're looking at trying to expand into, or right now that's... [LB46]

JIM BALLARD: We may spin in that, maybe the next generation can take that and run with it. But we're that, small steps at a time. But that's something that we're taking a look at as well. We've got about half an acre of table grapes planted right now. [LB46]

SENATOR DUBAS: Thank you. [LB46]

SENATOR ERDMAN: Thank you, Senator Dubas. Senator McDonald. [LB46]

SENATOR McDONALD: Okay. So if people are raising grapes that are not sent to the winery, then will they still use the checkoff, or is this only the ones that go to the winery? [LB46]

JIM BALLARD: My understanding is the easiest way to do this would be by the grapes that come through the winery. In my mind and probably how we would work it is if you sold me a ton of grapes, and I pay you \$1,000 for that ton, basically, you're going to get a check from me for \$980. I collect that. It's a simple, easy, one fee. I would say the majority, and this is something, the majority of the grapes being grown right now in Nebraska are going to the wineries, so that's easy to track that way. But there may be a few acres out there. Another issue may be somebody that sells grapes to...I know we've had requests from Iowa, Missouri, South Dakota, that they've wanted to buy our grapes or our juice. We haven't done that simply because we need everything we have for right here. So that's another issue, if we sell to another state, how that's collected. And as Senator Hudkins said, I think the intent is for the producers to pay that. The way we were going to handle it, though, is very simple--they bring it in, kind of like in an elevator, cut the check, and then it's all said and done. But there could be some out there that would be up to them. And how we police that, I'm not sure how we do that. It's probably not a great amount out there right now, but as this industry grows it could become an issue. [LB46]

SENATOR McDONALD: Thank you. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Thank you, Senator McDonald. Senator Karpisek. [LB46]

SENATOR KARPISEK: Thank you, Mr. Chairman. How about the grapes that you have, that you grow and then you crush? Are you going to pay \$20 on that? [LB46]

JIM BALLARD: And that's a great question. And that was something when we first introduced this legislation, and correct me if I'm wrong, but it would almost be a double tax on those. So those aren't included in this; it's basically growers. Since the wineries already pay that crush tax, this would be something that would not be included in that. Now we could get rid of the crush tax and pay on, but I think we generate more money off of that crush tax than we will off of the grapes in and of themselves. So instead of us paying \$20 a ton, and then turning around and paying \$20 for 160 gallons, that was eliminated out of there. So anything that's grown on sight would not be included in that. [LB46]

SENATOR KARPISEK: And the crush tax, where does that go? [LB46]

JIM BALLARD: It goes to the Grape and Wine Board, which sits in the Department of Agriculture. And then what that Grape and Wine Board does, and Eric Nelson is also going to testify, he's actually president of that board. But then that money sits with that board. And as an association or as an individual grower or as an individual winery, you can approach and request funding for research for different projects through that Grape and Wine Board. And then they allocate that funding accordingly. [LB46]

SENATOR KARPISEK: So this is all going to the same...this is going to the same place? [LB46]

JIM BALLARD: Correct, it would go to that Grape and Wine Board, correct. [LB46]

SENATOR KARPISEK: Thank you. [LB46]

SENATOR ERDMAN: Thank you, Senator Karpisek. Further questions for Mr. Ballard? Jim, my Bayard High math tells me 4 tons of grapes is equivalent to 142 bushels of number 2 yellow corn. [LB46]

JIM BALLARD: You got it. [LB46]

SENATOR ERDMAN: So that's what I've scribbled out. Currently, the Wine and Grape Promotion Fund has about \$5,000 to \$6,000 a year. As you look to the issues currently before you and to the future, what are some of those major unmet needs that you see, and how...there are other bills; Senator McDonald has one, and others, I mean how do you see the needs of the fund being met, and what are some of the goals that you have in accomplishing that? [LB46]

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

Agriculture Committee
February 27, 2007

JIM BALLARD: And that's a very good point. The bill that was just recently on the floor is something to kind of help us get to that point. They work hand-in-hand, basically, until we can become self-sustaining. There's a lot of startup programs out there that need more funding up front. One issue, of course, is research. We work as close as we can with the University of Nebraska, Vitaculture Program. To be honest, they don't have a lot of funding in that program. So some of this money could help in terms of some of the nutrient problems that we have vineyards, some of the cold, winter-hardy problems that we have. One thing that as an industry that we've talked about is more real susceptible to late freezes. Things start budding out for us about the end of April. About the first of May, you hit a 26, 27 degree day, we've lost 50 to 75 percent of our crop due to that. So we're looking at maybe how do we delay bud break until after that. So those are some of the research things that we're looking at. We're also to a point in our industry, I think, that we need to market and promote a little bit better than we have. If you look at where the wineries are in our state, they're all in rural areas, areas that there's a lot of economic development being pumped into some of these rural areas. So if we can market and promote people coming through Nebraska, or Nebraskans themselves, you'd be amazed at all the people that are from Nebraska that come to visit and say, wow, I didn't know you could do this in Nebraska. If we could promote and market and educate people about what we're trying to do with these value-added crops, grapes, I think it's going to help some rural economic development issues that we have out there go ahead. [LB46]

SENATOR ERDMAN: What's a target amount that your organization is looking at? There's obviously different...there's the Wheat Board, the Corn Board, there's a number of different entities out there that have their own ideas. Based on where you're kind of projecting your needs to be, do you have a number in mind that you need to have annually to kind of get? [LB46]

JIM BALLARD: In terms of what our needs are and what the cost and those? We really haven't. Right now we're in the middle of doing a strategic plan, doing some economic studies to see what actually we're generating out there and what we need to bring back into the industry to help accomplish a lot of those things that we're trying to do. So we don't have any specific numbers right now. And being a fairly young industry, we're still feeling our way through some of these issues. I know we've recently applied for some grants and were given some grants that have helped us get a new web site started that will promote more towards the consumer. So if somebody hops on, they're coming through Nebraska to visit somebody, they can hop on, find this web site, hey maybe while we're there we can also take in, you know, 18 rounds of golf here, stay at that bed and breakfast as well, or whatever the case may be, putting together some package tour things. And that...to get that started was about \$25,000, \$28,000 just to get it started. Now to maintain it will probably be about a fourth of that, I'm guessing. So that's just one project. [LB46]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Okay. Thank you, Jim. Senator Wallman. [LB46]

SENATOR WALLMAN: Do you get most of your grapes from like France, or Italy, or you know, your vines? [LB46]

JIM BALLARD: You mean the stock? [LB46]

SENATOR WALLMAN: Yeah. [LB46]

JIM BALLARD: No, actually we get most of our root stock, we've propagated a lot of our own. But to begin with it came out of the University of Minnesota, and the University of New York, or Cornell University, excuse me, out of New York. What we have planted are very winter-hardy. We don't have a long enough growing season to grow the traditional cabernet, chardonnay's, things of that nature. [LB46]

SENATOR WALLMAN: I was curious. [LB46]

JIM BALLARD: Yeah. So most of them are developed right here in the Midwest, or along the East Coast. [LB46]

SENATOR WALLMAN: Thank you. [LB46]

JIM BALLARD: You're welcome. [LB46]

SENATOR ERDMAN: Thank you, Senator Wallman. Further questions for Mr. Ballard? I see none. Thank you, sir. [LB46]

JIM BALLARD: Thank you very much. [LB46]

SENATOR ERDMAN: Next testifier in support, please. For those of you that are just coming in, is there anyone else that wishes to testify in support of LB46? Okay. [LB46]

ERIC NELSON: Good afternoon. My name is Eric Nelson, N-e-l-s-o-n, and I come wearing two hats. The first one is I am a grape producer. I have a vineyard, out by Raymond, Oak Creek Vineyards. And then I also am chairperson for the Nebraska Grape and Wine Board. As far as the vineyard goes, I want to let you know that all the producers in the state that I've talked to, I've not spoken with all of them, but everybody is definitely in favor of the \$20 per ton fee. They all feel real strongly. You know, the wineries, for the last several years, have been kicking in money. And they understand the importance of helping to promote the industry and to increase the research that we're doing here in our state, and that they all need to have ownership in this program. And as far as the Nebraska Grape and Wine Board, I agree with Senator Chambers on

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

Agriculture Committee
February 27, 2007

the fact that we have been operating on a shoestring for the last several years. And I believe the first year, and actually I have been involved with that board from its inception. We started out, I think, with \$3,000. Last year we had about \$6,000 to allocate. This next fiscal year, which is '07 to '08, we actually will have about \$10,000 to allocate. And we, on Saturday, are going to have our board meeting. And we have proposals before us, five very outstanding proposals for funding. And the funding requests are about two to three times more than what we have money to allocate, which is characteristic of most groups. So there are some really outstanding ideas out there that can really help this industry as far as promotion and research. And we are definitely in favor of the ability to have additional funds allocated to us. [LB46]

SENATOR ERDMAN: Thank you, Eric. Any questions for Mr. Nelson? I don't see any. Thank you, sir. [LB46]

ERIC NELSON: Okay, thanks. [LB46]

SENATOR ERDMAN: One last call for proponents on LB46. I see none. Anyone wishing to testify in opposition to LB46? I see none. Anyone wishing to testify in a neutral capacity on LB46? I see none. Senator Hudkins waives closing. That will close the hearing on LB46. We will now proceed to LB69. Senator Hudkins, you are recognized to open. [LB46 LB69]

SENATOR HUDKINS: Good afternoon again, Senator Erdman and members of the committee. I am still Senator Carol Hudkins, H-u-d-k-i-n-s, and I still represent the 21st Legislative District. The bill that I would like to present to you now is LB69. This bill amends the Agricultural Opportunities and Value-Added Partnership's Act to allow grants to encourage the production and marketing of speciality crops, and to support businesses that produce and market speciality crops. It identifies speciality crops as fruits, vegetables, tree nuts, dried fruits and nursery crops including floriculture. This is an area that grant funds should be directed to when possible. And it sets...it did set 75 percent of the money available for grants aside for use only on speciality crop applications. But after introduction of this bill, I learned that there are sufficient applications being received by the Department of Economic Development that involve specialty crop applicants. So they should compete head-to-head with all other applicants. So what I'm asking you to do is remove the portion of the bill that sets 25 percent of the total monies available aside to use specifically for those crops. And that's found on page 4, lines 9 and 10, so if you would remove that, please. I believe that LB69 will encourage greater entrepreneurial spirit in the agriculture sector, and the inclusion of specialty crops will aid in this effort. Speciality crops nationwide are a very large agricultural industry. Promotion of these crops in Nebraska makes sense and provides not only for greater crop diversity, but also for greater manufacturing diversity in the state. Investment through this process over time will pay big dividends for our rural areas. Thank you for your time. And I would ask that you advance this bill to

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

Agriculture Committee
February 27, 2007

General File as well. [LB69]

SENATOR ERDMAN: Thank you, Senator Hudkins. Any questions? You don't want to donate a quarter to this group, Senator? [LB69]

SENATOR CHAMBERS: No, I'm busted. (Laughter) [LB69]

SENATOR ERDMAN: Well, luckily the calls around here are free, so you'll be okay there. I see no questions, Senator Hudkins. [LB69]

SENATOR HUDKINS: Thank you. [LB69]

SENATOR ERDMAN: Can I see a show of hands of those who wish to testify on LB69? I see three, for sure. Okay, come forward. Proponents. [LB69]

JOHN JORDISON: Senator Erdman, members of the Agriculture Committee, my name is John Jordison, it's J-o-h-n, last name is spelled J-o-r-d-i-s-o-n, and I am a registered lobbyist on behalf of my employer, Great Plains Communications, however I am appearing today on behalf of the Nebraska Rural Development Commission, and more specifically as chairperson of the Rural Development Commission's Legislative Committee. We just wish to express our support for LB69. We would echo Senator Hudkins' call for striking the language that specifies that 25 percent of the grants go towards speciality crops. The people who have reviewed the value-added ag applications have said there are enough applications that would qualify, and their feeling was that it would tend to hamstring the reviewers and the commission if, for some reason, there weren't 25 percent...if there weren't enough applications geared toward specialty crops. So with that, we would recommend the rest of the bill. We appreciate the committee's endorsement of it. And I'd be happy to answer questions. [LB69]

SENATOR ERDMAN: Thank you, John. Any questions for Mr. Jordison? John, I have one. In the bill, in Section 4, page 5, it strikes the language about the collaborative agreements with other operations, entities, and organizations. Simply, as I would understand the new language would allow individual farm and ranch operations to qualify under the bill. As I understand your statement and the Rural Development Commission's role in this program is noted, as I understand the statement about the availability of qualified recipients currently, is it necessary also to strike that language? And that might be something for Senator Hudkins to address in her closing as well. If we're trying to solve a problem, which is there's not enough money going to these areas, and you're telling us that there's at least 25 percent that would qualify, is it necessary to go and to strike that and essentially broaden it, not just to the specialty crops, but to essentially anyone, which may have a counter effect of not only changing what you're trying to accomplish based on existing practice, but also broadening that eligibility to other individuals? [LB69]

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

Agriculture Committee
February 27, 2007

JOHN JORDISON: Senator, I can respond by saying that the commission...the Legislative Committee did look at that. And they are comfortable making that change, feeling that it would be less restrictive on who could apply. In other words, we're trying to encourage more and more applicants for the grants. [LB69]

SENATOR ERDMAN: Okay, all right. Thank you, John. Other questions for Mr. Jordison? I see none. Thank you, sir. [LB69]

JOHN JORDISON: Thank you. [LB69]

SENATOR ERDMAN: Next testifier in support, please. [LB69]

KENNETH WINSTON: Good afternoon, Mr. Chairman and members of the committee. My name is Kenneth Winston. Last name is spelled W-i-n-s-t-o-n. And I'm appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB69. The Sierra Club supports organic and sustainable agriculture. We also support diversification of agriculture because of the fact that it's generally beneficial to the environment, in contrast to monocultures. And we also are in support of efforts to provide more opportunities for rural development and for smaller operations. So anything that will provide incentives to do that we support. I recognize that the definition of specialty crop is not limited to organic or sustainable practices, but we believe that many of those practices, many of the people that do these kinds of things are engaged in that kind of activity, so we'd like to encourage that to happen. [LB69]

SENATOR ERDMAN: Thank you, Ken. Any questions for Mr. Winston? I don't see any. Thanks. [LB69]

KENNETH WINSTON: Thank you. [LB69]

SENATOR ERDMAN: Next testifier in support, please. [LB69]

JIM BALLARD: Senator Erdman, senators, Jim Ballard, B-a-l-l-a-r-d, from James Arthur Vineyards, again representing the Nebraska Winery and Grape Growers Association, and we're here in support of LB69. As Senator Hudkins so well stated, specialty crops are becoming more and more important, I think, in the landscape of agriculture today. And specialty crop growers are faced with a number of different challenges. Basically, we, across the country, comprise hundreds of relatively small acreage crops, which many represent perishable products. And just like other farmers and ranchers, specialty crop growers face the risk of crops being destroyed by pest, disease, natural disaster. Research is important in helping us to fight those. And, of course, research requires money. Equally important, I think, specialty crops require a high percentage of marketing and promotion to be successful. In many cases we're talking about going

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

Agriculture Committee
February 27, 2007

right from the farm gate to the consumer. Of course, promotion and marketing costs money. And I think with support of this and allowing the amendment to the...or the provision, I guess, modifying the provision of the Ag Opportunity and Value-Added Partnership Act that will help specialty crops as an investment providing some of those research and marketing, and maybe even encouraging some new ventures to provide an economic impact in rural areas, promote ag tourism, many other things that can be very helpful in rural communities. So in conclusion, I would just like to thank Senator Hudkins for introducing this bill and for all the support she's given the agricultural industry in our state. And I'd be happy to answer any questions. [LB69]

SENATOR ERDMAN: Thank you, Jim. Any questions for Mr. Ballard? Senator Karpisek. [LB69]

SENATOR KARPISEK: Thank you, Chairman Erdman. Would we consider switch grass or any of the things that we're talking about, ethanol, in this at all? [LB69]

JIM BALLARD: That's a good question. I think the way it's worded...let me look here. There's actually a definition, which I believe we took from the federal definition of specialty crop, which includes fruits, vegetables, trees, nuts...tree nuts, dried fruits, and nursery crops including floriculture. I'm not sure if switch grass would be part of that or not. In my mind it's a specialty crop, value-added crop, but I don't know if it's included specifically in there. [LB69]

SENATOR KARPISEK: I guess I was more asking the committee than yourself especially. Senator Wallman had a question, and that's what made me think of the switch grass. His wasn't switch grass, it was just grass. (Laugh) [LB69]

SENATOR ERDMAN: Thank you for that insight, Senator Karpisek. Other questions? You're off the hook, Jim. Thanks. [LB69]

JIM BALLARD: Thank you, senators. [LB69]

SENATOR ERDMAN: Anyone else wish to testify in support of LB69? I see none. Anyone wishing to testify in opposition to LB69? I see none. Anyone wishing to testify neutral? I see none. Senator Hudkins, you're recognized to close. [LB69]

SENATOR HUDKINS: Thank you, Senator Erdman. In response to your question on whether we want to strike the language on page 5, yes, we do. We still want to take that language out. The reason is that we want these funds to be available for individual products...projects, excuse me. But currently the grantor of these funds can use a weighting system to determine the merits of the application. And if there is a group effort and the merits of the application are there, they would be given maybe a higher weighting system. But we took that language out to also keep it open for individuals.

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

Agriculture Committee
February 27, 2007

And we're not taking the ability to weight the projects away from the grantors. [LB69]

SENATOR ERDMAN: Okay. Any questions for Senator Hudkins? Mine was just an observation. I know that I've been approached in my district by what I would consider to be value-added ag products, individuals trying to market directly what we would consider to be commodities to a consumer, soup companies, and different ideas. And technically this language would be better for them. It's just one of those situations as we change something, based on how we're operating today, understanding that if there is sufficient funds to take this part, if that doesn't open it up and actually eliminate some of the opportunities that are currently there because it is a narrower field. But you've thought about it and I appreciate your responding to it. [LB69]

SENATOR HUDKINS: We're not eliminating anyone's participation. [LB69]

SENATOR ERDMAN: Okay. That will close the hearing on LB69. Thank you, Senator Hudkins. [LB69]

SENATOR HUDKINS: Thank you. [LB69]

SENATOR ERDMAN: We will now proceed to LB626, I believe. Senator Dierks. Can I see a show of hands of those that wish to testify on LB626? Clear the room here a little bit. I got two, three, four, five. Okay. Senator Dierks, you're recognized to open. [LB69 LB626]

SENATOR DIERKS: Thank you, Chairman Erdman and members of the Ag Committee. My name is Senator Cap Dierks from the...that's spelled D-i-e-r-k-s. I represent District 40. I'm here to introduce LB626. LB626 is a simple attempt to begin a program to encourage biodiesel production. It allows qualified producers, as defined by the bill, to apply for production incentives as of January 1, 2008. These incentives amount to 30 cents for each gallon of biodiesel fuel sold by the producer. If you have read the fiscal note, you will no doubt see a very high estimated price tag for the bill as written, \$18 million. Obviously, changes must be made to the bill as drafted if there's any hope for passage. A gentleman names Robert Burns will testify later this afternoon and bring some possible amendments to the bill. I'm a strong advocate of bills that provide economic development opportunities for rural Nebraska and develop other sources of renewable energy. My goal with LB626 is to bring an idea to the Ag Committee, one that needs additional study regarding funding mechanisms and impact on the state. Thank you for your attention to LB626. And I will try to answer any questions you might have. [LB626]

SENATOR ERDMAN: Thank you, Senator Dierks. Any questions from the committee? I see none at this time. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR DIERKS: Thank you. [LB626]

SENATOR ERDMAN: Thank you, sir. We'll proceed to proponent testimony. Those that wish to testify in support of LB626, please come forward. [LB626]

ROBERT BYRNES: (Exhibits 1, 2, 3) Good afternoon, Chairman Erdman and members of the Agriculture Committee. It's a pleasure to be here today. My name is Robert Byrnes, it's spelled B-y-r-n-e-s, from Oakland, Nebraska. I'm the owner of Nebraska Renewable Energy Systems, president of the Nebraska Renewable Energy Association, and the first commercially licensed biodiesel producer in the state of Nebraska. Today I'm representing myself and Nebraska's Farmers Union, who were not able to be present, of whom I'm also a member. I have a number of...there are two testimonies that I'm handing out. The first single page testimony is that of Mike McKenzie, who is the general manager of the first million-plus biodiesel plant in the state of Nebraska that is currently under construction. The second is my testimony, with additional information regarding incentives in other states. It should not be news to anybody that Nebraska has a huge potential for development of petroleum diesel replacements like biodiesel. Currently, at current production levels, over 500 million gallons per year of this fuel could be produced in the state. Farmers here and nationally are willing to pay more and have done so. This clearly verifies market acceptance by the consumer. Immediate market opportunities have been present in Nebraska for years, and as the biggest agricultural diesel consumer in the Midwest, biodiesel fits well into the agricultural cycle. The only weak point of biodiesel being the gel point under low temperatures, obviously during the ag cycle, when we have high agricultural consumption of diesel fuel, though that one shortfall, currently a shortfall of biodiesel is mitigated. So one would ask, where is this industry in the state of Nebraska? Today only one, small commercial facility exists, beyond my own research facility, and another has already closed its doors before initiating production. Two are currently under construction. Why are we seeing this slow growth in Nebraska? The biodiesel industry is at a crossroads. It is currently being thrashed about in a volatile commodity market, and the budding developments in Nebraska, as well as the future ones, are currently at risk. One may then ask the question, how can such an industry be at risk where there is so much opportunity? To be commercially viable, biodiesel relies upon cost-effective feedstocks, which make up 75 percent of the cost of the finished fuel. One year ago with soybean oil at 23 cents a pound, which is also the ten year average, a gallon of biodiesel could be made for \$2.34 pretax. This is at a time when petroleum diesel was \$3 a gallon pretax. No subsidy needed there, obviously. Currently, soybean oil has broken from its trending with crude oil and is currently rated at 30 cents a pound. This takes the cost of that same pretax gallon from \$2.34 to \$2.88. This at a time when petroleum diesel is currently at \$2 a gallon. The federal tax credit for blenders is the only thing holding this industry together without state support. Access to this credit, while being partially granted now at the discretion of petroleum marketers, will diminish in time. There used to be a front end subsidy granted through the Commodity Credit Corporation, CCCA 50 Program, this

Agriculture Committee
February 27, 2007

program has been terminated. In short, there will soon come a time that this industry will be working without a net in a volatile commodity market, unless states get involved. States that have done so have seen tremendous growth in this area. The 30 cent per gallon tax credit reflects a risk share, by the state, of 4 cents per pound for biodiesel producers for the biodiesel feedstock itself. Such support will greatly enhance the ability of this industry to weather the storms. In the meantime, cost-effective feedstocks that are outside of our food supply will need to be developed to ensure the long-term sustainability of this industry. For example, the highest oil seed able to be grown in Nebraska is the castor bean. The castor bean can provide oil at the rate of 151 gallons per acre. Current research into other nonfood...well castor is not a food either, but algae sources, for example, can provide over 5,000 gallons per acre. So this research is ongoing. Based on current population growth and energy consumption trends, at a time of peaking old carbon sources, it is a reasonable assumption that oil will see much higher prices than we have seen with a continued upward trend. Events in the world can also create supply issues very quickly, where fuel would not be available at any price. Citizens of the United States have been described as oil addicts. And our economy has been built on these cheap energy inputs. This has been both a blessing and a curse. And disruption of this foundation could cripple our economy and industry. However, while the peaks in oil prices have driven us to become more creative and efficient, the troughs have been just as effective in pulling out the rug on renewable energy developments. The oil addict is then easily lured back to his old habits by the siren's song of temporary drop in oil prices. Renewable energy is the anecdote for this addiction, the drug rehabilitation for this national U.S. oil addiction. If it is the key...it is also the key to ensuring that our children are not born into the same condition. Other states have made these kinds of commitments and are investing in the development of a long-term solution. I've prepared the following amendments for your consideration and inclusion in this bill. These have been distributed. These amendments will attempt to do the following, and I'll summarize them here. They will establish qualification standards for the production tax credit. They will also cap expenditures related to such credits, and incorporate all lessons learned in other states and in our own. More particularly, the qualifications standards would revolve around a majority Nebraska ownership. This model would ensure that the ownership of these facilities stay...of any subsidized facility would stay in the state, yet be able to incent outside investiture. This bill also outlines the use of a majority of Nebraska feedstock. We want to be adding value to our own commodity materials, not those brought in from somewhere else. But it does not exclude those brought in from somewhere else. This incentive would cap any particular facility at 10 million gallons per year, and the total program cap is put at 100 million gallons per year, total volumes that would receive a credit. These credits would be issued through the Department of Revenue, as is currently done with ethanol subsidies, and would last for a term of 24 months. At that time, that facility would terminate its ability to gain these credits and would move on. If a plan cannot cash flow after a subsidy for the first two years of the program, then there is something else wrong. It also addresses transferability issues that have been noted as a potential weakness in

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

Agriculture Committee
February 27, 2007

other subsidy programs. This program would allow transferability of this credit to a plan upon ownership changes, providing that the initial qualification standards have been met. I think as a scientist myself, I think the most exciting part of this amendment is the advanced research credit. This would enable production facilities to become the research platforms to investigate and research the long-term sustainability questions I've already mentioned to some extent. This would include things like the inclusion of ethanol, instead of methanol, in the production of biodiesel. We make ethanol here, it is a renewal product. Methanol is generated from reformed natural gas; comes from overseas and has a significant toxic profile. This advanced research credit would also be granted to those facilities that produce gallons of fuel outside of our food supply, and that would include sources like reformed biomass gases and the algae sources that I recommended. I think such an inclusion of a research credit will incent private industry to do this development, undertake this research, and will result in Nebraska-based intellectual property in renewable energy. I do urge your support for this bill and your consideration of these amendments. And I would be glad to answer any questions. [LB626]

SENATOR ERDMAN: Thank you, Robert. Any questions for Mr. Byrnes? Senator Wallman. [LB626]

SENATOR WALLMAN: Thank you, Chairman. Is soy diesel included in this, too, or not? [LB626]

ROBERT BYRNES: In the advanced research credit, no. Soybean oil is currently...it is part of the first incentive, which is 30 cents a gallon. The research initiative would be on top of that 30 cents. And it's a much smaller program. Soybean oil is at the current time is about 65 to 75 percent of the biodiesel feedstock pool. And, you know, there is also...it is a competing food use. And we have food and fuel kind of competing for the same source of supplies. And the thought is to get us out of the food supply and get us into other things. [LB626]

SENATOR WALLMAN: So you could add in edible fats or something to the... [LB626]

ROBERT BYRNES: Inedible fats, waste streams, biomass products, algal sources, things that are not taking away from the food supply. We have a responsibility to feed not only our own population, but populations across the world. And, you know, if fuel and food are competing on the same level, you're looking at \$5 a gallon fuel. Those cannot compete, and they shouldn't be forced to. [LB626]

SENATOR WALLMAN: Thank you. [LB626]

SENATOR ERDMAN: Thank you, Senator Wallman. Senator Chambers. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR CHAMBERS: Since this is going to be one of those begging, "boondoggish," hand out, publicly subsidized programs, like ethanol, will it use ethanol go produce the energy needed to produce this biofuel? Or is it going to use petroleum-based products? [LB626]

ROBERT BYRNES: Well, I'd answer that in two pieces, Senator. The goal of the interim study is to, first, before we come begging to the state for salvation, is to seek private financing sources through industry associations and other sources before we come to the state. That is and needs to be a consideration of last resort. To answer your question regarding ethanol, methanol, ethanol, any primary alcohol can be used to convert vegetable oil into biodiesel. Currently, methanol is used primarily in the industry, but methanol itself is a petroleum-based product and is not renewable itself, and has significant toxicity, which has been reflected through the air permitting requirements. The difference between using ethanol and methanol is very significant. This... [LB626]

SENATOR CHAMBERS: That's a good answer. [LB626]

ROBERT BYRNES: Okay. [LB626]

SENATOR CHAMBERS: That's all that I need. I was trying to see what they're thinking about, even if it's not successful. Now, when they try to get private funding sources, I'll tell you, they're not going to succeed, so they're going to come back to the state. But if the Supreme Court upholds term limits, you won't have me to deal with, and you all will plunder the treasury like ethanol has managed to do. [LB626]

ROBERT BYRNES: Well, Senator, I appreciate you guarding the taxpayer expenditures. However, I do believe expenditures in renewable energy are an expense that do come back and return manyfold in the form of value-adding to agricultural commodities, rural development in economic areas, high tech technical jobs in rural areas. So I think those are, as taxpayer investitures go, I think it's a wise one. [LB626]

SENATOR CHAMBERS: Are the discussions about the overuse of corn, for example, for ethanol purposes cutting into the supply of corn as a food grain for people? Are those serious discussions? Or are people just talking off the top of their head? [LB626]

ROBERT BYRNES: I hope there are serious discussions going on in that regard, because this is an example of, in my estimation, of an industry that is too...has too many eggs in one basket. There are many things that ethanol can be made of, like sweet sorghum, like switch grass, like a lot of things that people aren't eating. And I think that's one of the reasons why we included the incentive to find a way to do this without taking food off the table. [LB626]

SENATOR CHAMBERS: My final question. When is the ethanol industry going to tell

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

Agriculture Committee
February 27, 2007

the state that the subsidy can be reduced? First of all, without the federal subsidy ethanol is dead. States are not going to subsidize the production of ethanol at a level where it can be a viable industry. I don't think it's viable now. It doesn't have its own means of transporting the product from one place in the country to the other; it doesn't have pipelines. It's going to always be begging. And it's the big producers that are contributing to the congress people that will result in the federal subsidies. If those federal subsidies ever terminate, ethanol is through. So if that day comes and ethanol falls on hard days, will they throw in the towel or ask the state for increased subsidies, do you think? [LB626]

ROBERT BYRNES: I think, Senator, there is...I can't answer for the ethanol industry. But there is...ethanol has been generally accepted to have an energy return of 1 to 1.6; biodiesel is 1 to 3.2, or 1 to 4.3, it has a much higher energy return. And the nature of the process is very different. But I know that there are discussions and research going into finding ways of making ethanol that will be most cost competitive, that will be able to be sustainable. I agree with many of your observations that as currently done, with high natural gas consumption, using an electrical grid that has a very small renewable component, and having 100 percent, basically, corn inputs, except for some smaller plants in the northwest, yeah, I think that industry can do better. And I think the more it's exposed to the free economy, the quicker and more efficiently it will find those solutions. This bill and these amendments is designed to incent smaller, decentralized facilities that take regional inputs, convert them, and get them right back to the regional market, so people can come and buy their fuel at the facility and, you know, the transportation network is not involved. [LB626]

SENATOR CHAMBERS: Mr. Byrnes, when I get out of this Legislature, we're going to get a used car lot and call it, honest Robert, and honest Ernie's used cars. No, in reality, you're a very good representative for what you're trying to do. I don't think of you as a hustler. And you've had good answers, even though I don't agree with the approach that's being taken. I don't think you've tried to give us a fast shuffle or mislead us at all, and I appreciate that. [LB626]

ROBERT BYRNES: Senator, I'm here as a citizen of Nebraska. I am unpaid, but I have four children. [LB626]

SENATOR CHAMBERS: Um-hum. [LB626]

SENATOR ERDMAN: Thank you, Senator Chambers. Any further questions for Mr. Byrnes? I see none. Oh, do you have one, Senator Wallman? [LB626]

SENATOR WALLMAN: No, thank you. [LB626]

ROBERT BYRNES: Thank you, Mr. Chairman and committee. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Okay. Thank you, sir. Next testifier in support, please, of LB626. Don't everybody rush up here at once. Can I see a show of hands of those that plan to testify in support? I see three more. Fantastic. [LB626]

TERRI DAGEFORD: Good afternoon. My name is Terri Dageford. I'm the executive director of Gage County Economic Development in Beatrice, Nebraska. [LB626]

SENATOR ERDMAN: Terri, can you spell your name for us? [LB626]

TERRI DAGEFORD: Dageford is D-a-g-e-f-o-r-d. [LB626]

SENATOR ERDMAN: Terry with a Y, or Terri with an I? [LB626]

TERRI DAGEFORD: Terri is with a...T-e-r-r-i. [LB626]

SENATOR ERDMAN: Okay, thank you. [LB626]

TERRI DAGEFORD: Thank you. I'm here in support of legislation that would create a production incentive for biodiesel fuel. Beatrice, Nebraska is constructing today a 50 million annual gallon biodiesel facility. It is a subsidiary of U.S., Canadian Biofuel and Australian Ethanol Limited. This project will be very instrumental in the state, let alone Beatrice and Gage County. Its investment is about \$60 million into our community. And with that, we broaden the tax base, not only for Beatrice and Gage County, but for the state of Nebraska. It will employ 21 individuals with an annual salary average of about \$700,000. And during the construction phase we will have nearly 200 companies and construction workers within our county, and probably some in Lancaster County as well, who will be on the project. So in terms of retail trade and lodging and such, it will certainly add to the economic benefits in Gage County and the state of Nebraska, but most important we're going to have a corporate citizen within Beatrice and the state of Nebraska that is providing renewable energy which is our future; I firmly believe that. Approximately 31 state provide either a user or a producer incentive for biodiesel today. LB626 will place Nebraska in line with 13 other states that provide biodiesel production incentives, they are Arkansas, Florida, Indiana, Kansas, Kentucky, Montana, Missouri, Mississippi, North Carolina, Oklahoma, New York, and Virginia. The producer incentives vary in various states. Some are on a sliding scale, and some are an amount ranging from 10 cents to 30 cents per gallon. Biodiesel producers are held in highest standards, and those standards are defined by the American Society of Testing and Materials. In summary, by enacting Nebraska LB626, the Biodiesel Production Incentive will allow producers to make capital investments in facilities, establish rural growth through employment and third party services, and most important it will provide the means for the continuum of cutting edge technology that will sustain the biodiesel product in the next generation energy economy. Thank you, and I'll answer any questions. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Thank you, Terri. Any questions for Ms. Dageford? Senator Chambers. [LB626]

SENATOR CHAMBERS: Ms. Dageford, what is the name of the company that you said is doing all this building in Beatrice right now? [LB626]

TERRI DAGEFORD: The biodiesel facility is called Beatrice Biodiesel, LLC, and it is a subsidiary of U.S., Canadian Biofuels, and Australia Ethanol Limited. [LB626]

SENATOR CHAMBERS: These are foreign companies, are they? Canadian and Australian? [LB626]

TERRI DAGEFORD: Well, it was formed...the subsidiary or the parent company is from Australia, yes. [LB626]

SENATOR CHAMBERS: So why should the state of Nebraska subsidize two foreign companies, or two multinational corporations with headquarters in Australia and Canada? [LB626]

TERRI DAGEFORD: It's part of the renewable energy, and it is a Nebraska corporation. It was formed a Nebraska corporation as well. [LB626]

SENATOR CHAMBERS: Well, maybe to just suck some money out of Nebraska, but the parent is the one, just like when England was the mother country and established colonies on this continent, the purpose was to draw the wealth from this country back to the mother country, England. So whenever a colonial system is set up, the colonies contribute to the mother country. But the mother country does not contribute to the colonies. Now, here's what I'm getting at, if all this building is going on right now, and I think this multinational company that you mentioned is able to sustain it, why do we need to give them an incentive to do what they're doing already? [LB626]

TERRI DAGEFORD: The incentive, basically, isn't just for the Beatrice biodiesel facility, it's for future biodiesel facilities that will be constructed within Nebraska. [LB626]

SENATOR CHAMBERS: By whom? [LB626]

TERRI DAGEFORD: By other companies. [LB626]

SENATOR CHAMBERS: So those two companies want Nebraska to subsidize competition against them. [LB626]

TERRI DAGEFORD: Well, we're in support of creating jobs in Nebraska, which the

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

Agriculture Committee
February 27, 2007

biodiesel industry will do. And utilizing the soybean oil from crushers that we do have in Nebraska, as well as creating an environment whereas we are part of the renewable energy. [LB626]

SENATOR CHAMBERS: That's all I would have. Thank you. [LB626]

TERRI DAGEFORD: Thank you. [LB626]

SENATOR ERDMAN: Thank you, Senator Chambers. Further questions? Senator Karpisek. [LB626]

SENATOR KARPISEK: Thank you, Chairman Erdman. Senator Chambers, don't fall out of your chair, but I'm going to agree with you on this one. (Laughter) Yeah, hang on, buddy. I think what happened, and maybe the boondoggle that I feel in ethanol is that we had Nebraska people coming together to start up ethanol. We gave them tax breaks, gave them incentives; they turned around and sold those plants to big oil. So...and I agree with ethanol, I agree with biodiesel. But the question is, as Senator Chambers said, why are we going to keep putting the money out there, then the money leaves the state? And yes, it's good for the farmers, and it's good for the work, and the rural communities, which I'm very in favor of. But I am very worried about that we're putting this money out and we're creating the system that they're using us and milking us dry. So I don't mean to put you on the spot on this one, but it does seem to me like we are enabling them to take advantage of us. [LB626]

TERRI DAGEFORD: I look at it in a different facet, so to speak, because I look at the ethanol industry, as well as the biodiesel industry and what it can be. And we have investments coming into Nebraska, and we can't forget that. These are investments...the ethanol plants or facilities are not funded by just Nebraskans. It is outside investment that is coming into our state of Nebraska as well. And we have to think globally of how we're going to attract investment, and to me it was the renewable fuels, and it was the ethanol, and it was the biodiesel. So I look at it in a different...I look more toward economic development. And I would hope that those individuals who are in the planning stages of a biodiesel facility will look at their business plan and not incorporate incentives so that they can stand on their own. But you do have other states that are providing your production credit for ethanol, your tax credits for ethanol, as well as biodiesel. It just puts Nebraska in line with other investments that can come in. And keep in mind that your facilities, the ethanol facility and the biodiesel facilities, they create synergies, they create other jobs. And we're all about creating jobs. It's not the number of jobs in Nebraska, but it's going to be the wealth created by the jobs. We have 1.7 million individuals and our manufacturing companies today are saying we need people, we need employees so we can expand. [LB626]

SENATOR KARPISEK: I'm sorry, I agree with all that. But are we selling ourselves out?

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

Agriculture Committee
February 27, 2007

Kind of like this one by Beatrice, it's already going up, so obviously it's going...somebody thinks it's going to make money. [LB626]

TERRI DAGEFORD: Obvious...I agree with you. And I am for production credit incentives and what the Legislature would set as a fair production credit incentives is certainly up to the Legislature. I am in support of it, I'm in support of the legislation as written. And I'm sure it will be amended accordingly. But I feel it is important for the growth and... [LB626]

SENATOR KARPISEK: And I think it's a wonderful thing, I just don't really care for where the wealth is coming from. [LB626]

TERRI DAGEFORD: It has to come from outside, it can't always come from within Nebraska. [LB626]

SENATOR KARPISEK: No, but it could come from the U.S. [LB626]

TERRI DAGEFORD: But they are using the soybean oil from the U.S. [LB626]

SENATOR KARPISEK: Thank you. [LB626]

SENATOR ERDMAN: Thank you, Senator Karpisek. Senator Wallman. [LB626]

SENATOR WALLMAN: Thank you, Chairman Erdman. Hello. How are you? [LB626]

TERRI DAGEFORD: I'm just great. [LB626]

SENATOR WALLMAN: Gage County. And you know, foreign investments, we invest money in foreign oil, right? [LB626]

TERRI DAGEFORD: That's correct. [LB626]

SENATOR WALLMAN: And is the biodiesel friendly to the environment? [LB626]

TERRI DAGEFORD: Biodiesel is friendly to the environment. It's a closed loop process. So it doesn't require, you know, the emissions are low and it doesn't require water usage, like an ethanol facility would do. [LB626]

SENATOR WALLMAN: Thank you. [LB626]

TERRI DAGEFORD: You're welcome. [LB626]

SENATOR ERDMAN: Thank you, Senator Wallman. Any further questions for Ms.

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

Agriculture Committee
February 27, 2007

Dageford? I don't see any. [LB626]

TERRI DAGEFORD: I appreciate your concerns and thank you. [LB626]

SENATOR ERDMAN: Thank you. Next testifier in support, please. [LB626]

STEVE WELLMAN: (Exhibit 4) Good afternoon, Mr. Chairman, committee members. I'm Steve Wellman, S-t-e-v-e, last name is W-e-l-l-m-a-n. I farm by Syracuse. I produce soybeans, corn, cattle and wheat. I am a board member of the Nebraska Soybean Association and the American Soybean Association. I'm here today to testify in favor of LB626. I believe its an important part to make Nebraska more competitive with the other states for the biodiesel industry, the expansion that's going to go on there, and the investment that will be made. In 1999, we used less than 5 million gallons of biodiesel in the United States. Last year we used 150 million gallons, that's a very large increase, and is projected to continue. By the year 2015, it's projected that biodiesel production will be 650 million to 1 billion gallons in the Unites States. In August of 2006, the top three states that produced biodiesel were Texas, Iowa and Minnesota. Most of Texas production comes from cottonseed oil and animal fats; most of Iowa's production comes from soybean oil, and Minnesota's is mostly soybean oil. These states all have legislation that supports biodiesel. Minnesota has a state mandate that requires 2 percent of all diesel fuel that...excuse me, that all diesel fuel contains 2 percent biodiesel, except fuel used by railroads. According to a nationwide study, the biodiesel industry will add \$24 billion to the U.S. economy by the year 2015. The effect of biodiesel on the economy includes temporary impacts of construction, and permanent impacts of annual production, and the direct value of biodiesel and coproducts. The ongoing annual operation of biodiesel plants offers the most significant impact on the economy. Biodiesel producers will invest nearly \$810 million by 2015 to build new or expand existing plants. That will create 11,700 construction jobs, and biodiesel will displace 242 million barrels of crude oil. That would keep \$13.6 billion in the United States that won't be spent on foreign oil. A study completed by Donis Petersan of NPPD estimated the economic impact of a 10 million gallon plant in Nebraska. According to his study, this 10 million gallon plant would add annually \$7 million to the economy of Nebraska. This includes wages, property taxes, indirect businesses taxes, rents, royalties, and the expected return to the investors. Nebraska has several competitive advantages at this point. We have various amounts of feedstocks available, we have animal fats available in Nebraska, we have soybean oil available. And it may even open up an opportunity for some other...maybe some canola production or something like that in some areas where, I'm thinking out west, I guess, in western Nebraska, where there are some water issues, and canola would be a higher oil content crop than soybeans. So, you know, it may open up industries that we really haven't even had in Nebraska to this point. Basically, what it amounts to is how competitive do we Nebraskans want to be with the other states to attract this production and this investment to Nebraska? Thank you. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Thank you, Steve. Any questions for Mr. Wellman? Senator Chambers. [LB626]

SENATOR CHAMBERS: Mr. Wellman, this is primarily an investors game, isn't it? The main aim is to give these people who are investing this money a good return on what they're investing, and incidentally, there is some less reliance on oil that's okay. But this primarily is aimed at the investors, isn't it? [LB626]

STEVE WELLMAN: I believe this is aimed to draw the investors to put their money in Nebraska, to invest in Nebraska. [LB626]

SENATOR CHAMBERS: And they're only interested in getting a good return. They don't care about Nebraska. [LB626]

STEVE WELLMAN: Well, I'm sure they want a return on their investment, yes. But they will be producing a product that is renewable, and it creates a healthier atmosphere, the emissions are cleaner than regular diesel fuel. [LB626]

SENATOR CHAMBERS: Well, why do we have to give them an incentive, if there's going to be so much money made out of biodiesel? See, I see a contradiction here. On the one hand, I read your testimony, read what you said, what these people said in their reports. This is like a gold mine. Gold just waiting to be gathered up. Then why does the state have to take taxpayers money to pay these gold diggers to just scoop up all this gold? Or is it a fact that biodiesel is not going to be able to stand on its own, it needs to have public taxpayer subsidy or it will collapse? And there's really not that much money in it after all? [LB626]

STEVE WELLMAN: I, personally, haven't looked at what the return on investment is. It's going by the...I'm going by the studies that say this development is going to happen and the investments will be made. And it just depends on where the investments are. If a person has the option of building in Missouri with a 30 cent per gallon incentive, or building in Nebraska and using basically the same feedstocks, I would assume that they're going to build in Missouri and get the 30 cent per gallon investment...production credit. [LB626]

SENATOR CHAMBERS: And I say let them build there, and let this tax money be for some other worthwhile purpose in Nebraska. But if it's being controlled by outside investors, and they decide they're not getting the return that they want after they got the incentive, you think they're going to stay there because they love Nebraska, or Missouri, or are they going to pull up and leave? [LB626]

STEVE WELLMAN: I don't know how to answer for somebody else what they will do. I

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

Agriculture Committee
February 27, 2007

don't know. [LB626]

SENATOR CHAMBERS: Are you...do you invest? What do you do for a living? [LB626]

STEVE WELLMAN: I farm. [LB626]

SENATOR CHAMBERS: Oh, you're a farmer. Okay. I thought you were in with one of these companies also. [LB626]

STEVE WELLMAN: No, sir. No, sir. [LB626]

SENATOR CHAMBERS: Okay. So then you're just one of the...you're one of the... [LB626]

STEVE WELLMAN: I'm trying to create a new market for some of my production, Senator Chambers. [LB626]

SENATOR CHAMBERS: So everybody's in it for themselves. And they talk of all this stuff. And I don't blame you for that. If you didn't make money, why would you farm? [LB626]

STEVE WELLMAN: Correct. [LB626]

SENATOR CHAMBERS: You're not going to just do it. And these people that wave this thing in front of you and made you feel, hey, there's a pot of gold waiting for you, too, so go tell those rubes in the Legislature, give us 30 cents. Let me ask you a question. Are you willing to take a...have a nickel checkoff on every bushel of every crop you produce in order to go into this Incentive Fund? A nickel a bushel. [LB626]

STEVE WELLMAN: I would say, because of the different various feedstocks, unless you some way equitably assess that to all the feedstocks, no. [LB626]

SENATOR CHAMBERS: Well, you put too many conditions. This is a sure thing. Boy, I wish I had my skill clothes now. You can't lose here. A nickel a bushel, and you'll get ten times that return. [LB626]

STEVE WELLMAN: What if I pay the nickel a bushel and they don't use soybean oil? [LB626]

SENATOR CHAMBERS: Well, that's...all of us are risking something. You're going a nickel a bushel, I got to go into my comp and bring millions of dollars to Nebraska. I'm going to risk millions, you risk a nickel. You don't want to risk that? Why should I come to Nebraska? Here's what I'm getting at, everybody wants to get something while

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

Agriculture Committee
February 27, 2007

putting out as little as possible and risking as little as possible. They want a guaranteed 30 cents, is it per bushel, I mean per gallon? [LB626]

STEVE WELLMAN: It's per gallon production up to 10 million gallons. [LB626]

SENATOR CHAMBERS: Thirty cents per gallon subsidy on a sure thing, that looks to me like it's not so sure. If it's sure, why do you need the incentive? And if you're going to get the incentive, are you willing to have the farmers put up at least 50 percent of that 30 cents? The state gives 15 cents, and the farmers give 15 cents per gallon. [LB626]

STEVE WELLMAN: Well, through...as far as soybean producers, through the national checkoff and the Nebraska soybean checkoff, we've invested probably \$25 million to this point to develop this industry. [LB626]

SENATOR CHAMBERS: I'm talking about...since we're talking about now creating a brand new state subsidy, 30 cents a gallon, are you and the other farmers, whose crops will be used and they'll make money, willing to have a nickel checkoff per bushel of every crop that would be used? [LB626]

STEVE WELLMAN: I would say at this point no. [LB626]

SENATOR CHAMBERS: Okay. That shows a lot of confidence in this sure thing. But that's all I have. Thank you. [LB626]

STEVE WELLMAN: Okay. [LB626]

SENATOR ERDMAN: Thank you, Senator Chambers. Any further questions? Steve, there's been an amendment offered to the committee, substantially refines the bill. This may go to some of Senator Chambers' questions as well. As I read the amendment, starting on page 1, lines 21 and continuing on through lines 3, on page 2, it states that for an individual...for an entity to be a qualified biodiesel producer they have to have a principle place of business in Nebraska, whose facility for the production of biodiesel is located in Nebraska and owned by a majority of Nebraska agriculture producers or operated by a controlling business entity that have a majority ownership of Nebraska agricultural producers. Are you aware of that? [LB626]

STEVE WELLMAN: Just recently, it wasn't anything that we saw at that point in time, until just yesterday. [LB626]

SENATOR ERDMAN: Okay. I think that may actually... [LB626]

STEVE WELLMAN: It addresses the local ownership part. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Yeah, and I don't want to say that it disqualifies the plant in Beatrice. But as I would understand their business structure, they would not necessarily fall under this plain reading of this language. But I just wanted to know, if you were aware of that new language? [LB626]

STEVE WELLMAN: I guess, basically, we're here to...we support the concept. And you senators are probably aware that we've introduced a different bill that deals with production, actually investment in Nebraska for biodiesel. It approaches it in a different manner. So if you've looked at that, it's LB343, which I realize doesn't have anything to do with this. But maybe there's something that can be worked together between the two or something like that. [LB626]

SENATOR ERDMAN: Okay. Thank you, Steve. Any further questions for Mr. Wellman? I don't see any. Thank you, sir. [LB626]

STEVE WELLMAN: Thank you. [LB626]

SENATOR ERDMAN: Next testifier in support, please. [LB626]

DEBBIE BORG: (Exhibit 5) Good afternoon, Chairman Erdman and committee members. I'm Debbie Borg, D-e-b-b-i-e B-o-r-g. I'm a mother, a farm wife, and soybean producer from Allen, Nebraska. And I currently serve as the vice chairman of the Nebraska Soybean Association. I'm here to speak in favor of LB626. The benefits of biodiesel are many, and I'd like to share with you today what biodiesel can do for our health and our environment. I don't know if you all know, but biodiesel made it into Webster's Dictionary this year, which is pretty exciting. And you'll notice that it's still a misspelled word in "Word." But there's a lot more exciting news about how biodiesel can help improve our environment. Biodiesel is safer for people to breathe. Research conducted in the U.S. shows biodiesel emissions have decreased levels of all target polycyclic aromatic hydrocarbons (PAH) and nitrated PAH compounds as compared to petroleum diesel exhaust. These compounds have been identified as potential cancer causing compounds. Yes, breathing in biodiesel is better for our lungs and hearts. When it comes out the exhaust pipe, it even smells better than diesel smoke. Using biodiesel can smell like french fries. This past September, at the first Air Quality and Alternative Transportation Fuel Forum, attendees learned about the important role biodiesel can play in reducing harmful emissions and improving air quality and human health. Dr. Robert McCormick, U.S. Department of Energy National Renewable Energy Laboratory Principal Engineer, presented the latest biodiesel emissions data, including a blend of 20 percent biodiesel, which is 20 percent biodiesel combined with 80 percent petroleum, can reduce particulate matter emissions by more than 20 percent based on heavy duty vehicle testing. Biodiesel blends significantly reduce toxic compound emissions. If global warming is happening, then biodiesel is one of the answers or the solutions in reducing life-cycle carbon dioxide emissions. Use of B20, which is the 20

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

Agriculture Committee
February 27, 2007

percent blend, can reduce life-cycle carbon dioxide emissions by 19 percent. At the Clean Diesel Conference held this past November, Dr. Nathan Rabinovitch, Associate Professor of Pediatrics at the National Jewish Medical and Research Center, presented a study on the Asthma Health Effects of Particle Air Pollution. In this study he is suggesting the connection of the increased rate of asthma in children to the amount of time exposed to diesel fumes of school buses. Plus, biodiesel is nontoxic and biodegradable. Tests sponsored by the United States Department of Agriculture confirm that biodiesel is ten times less toxic than table salt and biodegrades as fast as dextrose. Everyone here realizes the importance of producing a quality, value-added product. In 2001, the American Society of Testing and Materials approved a specification, D6751, for biodiesel fuel. This specification was crucial in standardizing quality for biodiesel in our markets. Included in LB626 is the definition of biodiesel. B100 means pure biodiesel containing mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats. Since biodiesel can be made from several different feedstocks such as vegetable oils, canola, corn, soybean, sunflower, rapeseed, recycled cooking grease, and animal fats, it is imperative that the integrity and quality of biodiesel fuel be maintained all the way to the consumer. In summary, this incentive will help Nebraska be competitive in biodiesel development and production, while at the same time allowing us to continue to be a leader in providing renewable fuels for our citizens and our country. As a mother, it is better for my kids, as a farmer, it helps keep our rural economies thriving, and as a concerned citizen it is better for the environment and biodiesel can help reduce our dependency on foreign oil. I have included with my testimony, additional research to support some of my statements. Thank you. [LB626]

SENATOR ERDMAN: Thank you, Debbie. Any questions for Ms. Borg? Senator Karpisek. [LB626]

SENATOR KARPISEK: Thank you, Mr. Chairman. Being on the Soybean Board, which is wonderful, what if they decide that something else is better? Like we talked about canola, or castor beans? [LB626]

DEBBIE BORG: What if they decide? [LB626]

SENATOR KARPISEK: Yes. [LB626]

DEBBIE BORG: Research shows that other products do make more oil per acre. And so, I guess, I see it as a benefit for everyone, because we have discussed the food and fuel debate. I don't think biodiesel is going to be completely eliminated from the big picture, I think it will be a part of it. And I think that's fine if they find other sources. They're going to have to, in order to meet the demand. [LB626]

SENATOR KARPISEK: So maybe on your farm you'd grow some castor beans, too? [LB626]

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

Agriculture Committee
February 27, 2007

DEBBIE BORG: Right. [LB626]

SENATOR KARPISEK: Okay. That's great. [LB626]

DEBBIE BORG: Thank you. [LB626]

SENATOR KARPISEK: Thank you. [LB626]

SENATOR ERDMAN: Thank you, Senator Karpisek. Senator Wallman. [LB626]

SENATOR WALLMAN: Thank you, Senator Erdman. Does rapeseed per acre, do you know how much that produces, oil? [LB626]

DEBBIE BORG: I don't know the exact figure. I could find that out for you. It is... [LB626]

SENATOR WALLMAN: I'm sorry, I didn't look it up either. [LB626]

DEBBIE BORG: It is very high. [LB626]

SENATOR WALLMAN: I know a farmer in South Dakota, he uses it 100 percent. And so he doesn't pay any taxes. You know, he has diesel pickups, diesel cars yet. So I love diesel. You feel, too, that we have a surplus of soybean oil right now? [LB626]

DEBBIE BORG: Do we have a surplus of soybean oil? I would refer that to Loren Isom, who will be talking about some of those details. [LB626]

SENATOR WALLMAN: Okay. Yeah, I'm a diesel nut, so I...so, thank you. [LB626]

SENATOR ERDMAN: Thank you, Senator Wallman. Further questions for Debbie? I don't see any. Thank you, ma'am. [LB626]

DEBBIE BORG: Thank you very much. [LB626]

SENATOR ERDMAN: I see one more proponent. Is there anyone else wishing to testify in support of LB626? [LB626]

LORAN SCHMIT: Hello, Senator Chambers. [LB626]

SENATOR CHAMBERS: Hello. [LB626]

LORAN SCHMIT: (Exhibit 6) Mr. Chairman, my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. After many of years of testimony before the Revenue Committee on behalf

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

Agriculture Committee
February 27, 2007

of incentive bills, I was relieved when this bill was assigned to the friendly Ag Committee, until I remembered that Senator Chambers was a member of the committee, and I immediately became somewhat apprehensive. (Laugh) But knowing he can be a very fair and knowledgeable senator, I decided to testify anyway. I'm testifying here today on my own behalf. I am a registered lobbyist, but I have no client on behalf of this bill. I want to thank Senator Dierks for introducing the bill. And I would suggest that if the amendments provided by Mr. Byrnes are adopted then the proposal that I have offered would not be amenable to the bill. But 36 years ago, the Nebraska Legislature predicted and took action to encourage the development of energy from sources other than fossil fuels. That action has been followed by similar action by other state legislatures and by Congress. It is significant that political bodies predicted the shortage of petroleum fuels long before the petroleum industry recognized that fact. I believe it is important that the Legislature continue to encourage every kind of alternative energy development. I recognize, however, the practicality of politics. I do not believe this Legislature is inclined to begin another production incentive program at this time. I do believe that we will soon see a major increase in both utilization and production of biodiesel. There are multiple sources of raw material that can be used to produce biodiesel fuel. I am not a major supporter of legislative studies. I do believe, however, that an interim study conducted by this Agriculture Committee could be of substantial help to determine what, if any, action the Nebraska Legislature could take to assist the development of biodiesel industry in this state. Some of the areas which I believe the study could address are: Is there a need to encourage a biodiesel industry? Can biodiesel be produced at a competitive price and acceptable quality? What are the most desirable sources of raw material that are readily available? Can the multiple sources of raw material produce a uniform product that meets ASTM standards? Should the Nebraska Legislature encourage the state of Nebraska to perform road tests using locally produced biodiesel to determine if use of the product will cause any problems? The committee could encourage the development of a biodiesel industry that would set high environmental standards for the product. This bill could also be amended to require that all biodiesel fuels sold in Nebraska would meet ASTM standards. I believe the Department of Roads might even have some federal funds that could be used to pay for the cost of the study. I have no doubt that we are the verge of a greatly expanded biodiesel industry. I also believe that the Nebraska Legislature will play a role in that expansion. I believe that Senator Dierks' bill can be an important first step in that goal. I would ask that the Agriculture Committee conduct a study of the issue as it sees fit and report back to the 2008 Legislature. Thank you for allowing me to testify. And I have also a small item that appeared in the World-Herald today; it was buried inside the newspaper, headline was one column wide. It says, "Tank cleanup to cost \$12 billion." And I'm going to read it for the information of the committee because I do not have enough copies. It says, it will cost at least \$12 billion to clean up the contamination from tens of thousands of gasoline storage tanks that are leaking underground, congressional auditors say. That is far more than the \$72 million that Congress and the Bush administration had predicted, according to the General Accountability Office. The

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

Agriculture Committee
February 27, 2007

GAO's \$12 billion estimate would pay to seal 54,000 leaks from underground storage tanks that are either abandoned or which no one can be accountable for cleanup. An additional 63,000 leaking tanks would be paid for by gas station owners, a very small amount, or other operators of leaking tanks, along with insurers and state funds, according to GAO. In Nebraska, we have spent approximately \$200 million, thus far, on cleaning up of underground tanks. And I have to concede that I introduced a bill, Senator, that provided that fund. At the time I introduced it, I said it was an invitation to the largest boondoggle that would be introduced in Nebraska. (Laugh) Senator Chambers may disagree. But at least, Senator, it's the second largest, I think you would concede. I just want to point out that there are costs to every kind of project. And just because of the references that have been made to ethanol, if we had not invented ethanol, something else would have had to have been produced to take its place, because the lead had to be removed from gasoline, MTBE was proven to be a catastrophe and a disaster. And at the present time I think it's a safe bet to say that the petroleum companies are working diligently to find some substitute for ethanol. And if they do find that, Senator, I agree with you, there will be a dramatic change in the fortunes of ethanol. That is the way the system works. But it's also interesting to me that we always talk about the cost of these renewable energy products and projects, but we never talk about the subsidization of the petroleum industry, which has amounted to tens of billions of dollars in a multitude of ways. And I don't think there is anyone in this room today that thinks we wouldn't be engaged in the conflict in the Middle East if it were not for oil. I hope we don't ever have to put the price of that war on top of a barrel of oil, Senator; it would be a disaster. But I just want to say again, I appreciate the work of this committee and this Legislature. And after all, you know, Senator, you were involved from '71 on, so you must take some responsibility (laugh) for that ethanol growth because you had every opportunity, and you even had some opportunity after the public retired me to do something about it. And I have to say this, you've tried mightily, so I commend you for this. But I want to say this, the Legislature has treated the ethanol industry very well. I think that the biodiesel industry needs some assistance. And I think that we'll probably find a way. But this committee, Senator, could answer some of the questions and very honestly avoid some of the problems that we've referred to that have developed with the ethanol study with a good, thorough study. So I'd encourage you, if you don't adopt Mr. Byrnes amendments, to take a look at the proposal I've talked about and give it some consideration. Thank you very much. I'll answer any questions. [LB626]

SENATOR ERDMAN: Thank you, Loran. Any questions for Mr. Schmit? I don't...I don't see any. [LB626]

LORAN SCHMIT: I'm disappointed, but not much. (Laughter) [LB626]

SENATOR ERDMAN: (Exhibit 7) I have a letter in support from a Michael McKenzie, general manager of Northeast Nebraska Biodiesel, in support of LB626. That will be

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

Agriculture Committee
February 27, 2007

entered as part of the record. Anyone else wishing to testify in support? I see none. Anyone wishing to testify in opposition to LB626? I see none. Anyone wishing to testify neutral? Come forward. [LB626]

RICHARD HEDRICK: Against, sir. [LB626]

SENATOR ERDMAN: Are you against? [LB626]

RICHARD HEDRICK: Yes. [LB626]

SENATOR ERDMAN: Okay, come forward first. [LB626]

RICHARD HEDRICK: I'm Richard Hedrick, and I'm against this bill, LB626. [LB626]

SENATOR ERDMAN: Richard, can you spell your last name for us, please? Can you spell your last name for us. [LB626]

RICHARD HEDRICK: H-e-d-r-i-c-k. [LB626]

SENATOR ERDMAN: Okay, thank you. [LB626]

RICHARD HEDRICK: This is an incentive that isn't necessary at all. I don't believe that it would be necessary with all the plants that are built, being built and are planned. This 30 cents will be added to the state and federal incentives, will it be on top of all the other incentives there are for building plants? Will the plants that are already built, will they get this 30 cents? They don't need it. Producers will be able...the producers, the way this bill is, they won't be able to use their own product to get the 30 cents. If they use it in their own vehicles, they'll have to sell the alcohol, then buy it back. Grain prices are rising from the bottom they been in for the last 50 years, since I gave up farming. This money is for the rich. The state of Nebraska will not pay for the people to process food stamps, but they will give out money for these kind of projects. This bill is for the rich, like the bill to guarantee the people who loan students money. The students pay high interest rates that the government pays...guarantees the loaner will not be held...will get their money back. The farmer is like the pickle in the middle, scratching the (inaudible) for the chickens. Farmers are for these projects, but they're against them. I contracted to raise popcorn for three cents a pound. I got three cents a pound after all the dirt and everything was processed out, and then I got the three cents when they took it to the store to be sold. Thank you. [LB626]

SENATOR ERDMAN: Thank you, Richard. Any questions for Mr. Hedrick? I don't see any. Thank you, sir. Anyone else in opposition? I see none. Neutral testimony? [LB626]

LOREN ISOM: (Exhibit 8) I'm Loren Isom, L-o-r-e-n I-s-o-m, and I'm with the University

of Nebraska Industrial Ag Products Center. I've been working with the biodiesel industry for the past several years, specifically trying to provide information to people that are potentially investing in biodiesel facilities, to make sure that they get accurate information to base their decisions on. Today my interest isn't for or against any specific incentives but to support the need for value-added processing in Nebraska. That's the major emphasis of our center at the university. And also to be available to provide additional information regarding the potential Nebraska has for developing the biodiesel industry. I've highlighted a couple of different things here that would maybe support or be in addition to the facts we've already heard about biodiesel today. But first just being that we're a national leader in the production of soybeans and livestock, which are two key components for feedstock that can produce biodiesel. I'll highlight some more numbers there specifically. But then also current processing of all the livestock in Nebraska is estimated to be enough feedstock to produce about 226 million gallons of biodiesel per year. If we look at Nebraska as far as our soybean production, which is the most predominant crop used for biodiesel in the U.S., we produce about 200 million bushels of soybeans, but we only process about half of that in the state. So a lot of those soybeans are just exported as whole beans. But if we'd expand that processing in the state, that would greatly increase our feedstock supply again, which was reflected in the first number I referenced up there. Then the other opportunity is other crops. We've talked a little about that. The one area that hasn't been talked about a lot is the corn oil that would be available from the potential ethanol processing. And soybeans are about 20 percent oil, corn is about 4 percent oil, but we're already going through industrial processing that crushes or processes that corn into ethanol. The oil remains in the DDG's. And technology is developing that would be able to extract that oil. It's fine in the feed ingredient, but it's got higher value use, and it's also limiting in ration. So when we talk about all the excess DDG's that are out there, if people want to feed over 50 percent, the oil is probably a limit to the amount of feed they can include in the ration. So by extracting that could be an additional feedstock source in there. But in general, kind of summarizing the feedstock availability, we've got ample feedstock supply in Nebraska to support an industry. But biodiesel is easily substituted into the petroleum industry market for that. But if all of the feedstock available in the U.S. were used to produce biodiesel, it's estimated it would only penetrate about 12 percent of the petroleum fuel market. That's the same on the world scale as well. Roughly, if you take all of the feedstock that's currently produced as vegetable oils, animal fats, that type of stuff, and apply it to the petroleum market, we're probably only going to touch about 12 percent. So with that in mind, I believe a large percent of Nebraska's agriculture feedstock is going to go into the biodiesel industry. The question then becomes, is it going to be processed in other states? Whether it's from the raw soybeans or the oil feedstock into biodiesel, or is some of that processing going to take place in Nebraska? That's my role, to look at opportunities that we can put more of that value-added processing in the state of Nebraska. That's the main point of my testimony. I've also highlighted in my written testimony here a little bit, we're heard about the economic advantages that was done by an IMPLAN model, by a Donis Petersan of Nebraska

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

Agriculture Committee
February 27, 2007

Public Power District. Highlight a little bit about the potential plants, information from the Nebraska Department of Environmental Quality regarding inquiries that they've had for interest in biodiesel, oil production. And then, I guess, the last part is that I just feel Nebraska has a great potential to add value to these raw commodities that we produce. And the value-added processing will have a positive economic impact. If you're interested in more information, the university has experts in different areas that would relate to this, and I know we'd be interested in providing information to any specific questions you might have. But I'll try and do my best today to answer any of those that you might. And I've also provided a list of resources that I found valuable in getting an understanding of the biodiesel industry. Thank you. [LB626]

SENATOR ERDMAN: Thank you, Loren. Any questions of Mr. Isom? Senator Chambers. [LB626]

SENATOR CHAMBERS: How many of these crops can be produced without irrigation? [LB626]

LOREN ISOM: Vegetable oil, a lot more are produced in a dryland situation. So soybeans, I don't know the exact number, but I would roughly say half of those are irrigated. That probably may be a little high dryland. But when you talk about crops like canola, those typically are not irrigated crops; sunflowers are typically dryland crops. [LB626]

SENATOR CHAMBERS: What about corn? [LB626]

LOREN ISOM: Corn, I don't know again the number there, but that's primarily irrigated in the state of Nebraska at least. [LB626]

SENATOR CHAMBERS: Are you aware that there are disputes as to how much water is going to be made available for irrigation purposes? [LB626]

LOREN ISOM: Yeah, I'm aware of that. There's people at the university that are very involved in that area. That is one of the advantages of biodiesel that we could look at, it typically is going to be produced on acres that are less likely to require irrigation. And so that is an advantage of biodiesel over say starch-based processing, which is what ethanol is, is starch-based. [LB626]

SENATOR CHAMBERS: Okay. You said the word before I could get it out, ethanol again. Now, no I don't have any questions, because you were in more or less a neutral position. You were giving us information. So the kind of questions I would ask, I don't need to put to you. Thank you, though, for your assistance. [LB626]

LOREN ISOM: Okay, thank you. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR ERDMAN: Thank you, Senator Chambers. Any further questions for Mr. Isom? Appreciate you coming, learning about what you're doing, and look forward to additional information from you. [LB626]

LOREN ISOM: Thank you. [LB626]

SENATOR ERDMAN: Thank you, sir. Anyone else in the neutral capacity? Just for the record, I'll note that 25 percent of the testifiers today were name Loren. (Laughter) Two out of eight, my Bayard High math tells me that's 25 percent. Anyone in a neutral capacity? I see none. Senator Dierks, would you care to close? [LB626]

SENATOR DIERKS: Did you want to close, Ernie? [LB626]

SENATOR CHAMBERS: I will, if you want me to. (Laughter) I was just going to say, go home. [LB626]

SENATOR DIERKS: Thank you, Mr. Chairman and members of the committee. And I thank you for the hearing, I think it's beneficial. You know, I really don't have too much to close on. I wanted to tell you that philosophically, I hope that we can come up with some kind of legislation that will allow us to keep control of the industry in our state, or at least in the hands of the producers, because I think we lost some of that control with ethanol. And I don't think it bodes well for us to let corporate America control this thing. So if we can some how or other keep this...if we do a study and we can come up with a formula that will keep this in the hands of the people that are doing the developing and running the business here locally, that would be what I would be looking for. Anybody have any questions? [LB626]

SENATOR ERDMAN: Any questions for Senator Dierks? Have you reviewed the amendments offered to us by Mr. Byrnes? [LB626]

SENATOR DIERKS: No. [LB626]

SENATOR ERDMAN: Do you have any comments? [LB626]

SENATOR DIERKS: No, I haven't seen them yet. [LB626]

SENATOR ERDMAN: Okay, very good. [LB626]

SENATOR DIERKS: I just...I knew he was working on them, but I just haven't. Okay? [LB626]

SENATOR ERDMAN: All right. Thank you, sir. [LB626]

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

Agriculture Committee
February 27, 2007

SENATOR DIERKS: Thank you much. [LB626]

SENATOR ERDMAN: That will close the hearing on LB626. That will close the hearings for today. We appreciate you being a part of our process and look forward to continued discussions. [LB626]

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

Agriculture Committee
February 27, 2007

Disposition of Bills:

LB46 - Advanced to General File, as amended.

LB69 - Advanced to General File, as amended.

LB626 - Held in committee.

Chairperson

Committee Clerk