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Revenue Committee  
February 03, 2017

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[LB215 LB325 LB601]

The Committee on Revenue met at 1:30 p.m. on Friday, February 3, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB215, LB325, and LB601. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Brett Lindstrom; and Paul Schumacher. Senators absent: Tyson Larson.

SENATOR SMITH: Good afternoon and welcome to the Revenue Committee public hearing. My name is Jim Smith. I represent District 14 in Sarpy County, and I serve as chair of this committee, and the committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To best facilitate today's proceedings, I ask that you abide by the following procedures. First, if you would please turn off your cell phones and other electronic devices so it does not interfere with people testifying. If you're looking to testify today and someone is in the chair to testify already, if you would move towards the front of the room so you're ready to go whenever that chair becomes available. The order of testimony will be introducer of a bill, proponents, opponents, those testifying in a neutral capacity, and then we will have closing remarks from the person that is introducing the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written testimony or exhibits for the committee and you would like to distribute those, please hand them to the page when you come up to the table and we will get those distributed for you. We will need 11 copies for all committee members and staff. If you need help making those copies, please ask a page and we can certainly help you with that. When you do testify, we will need you to both state and spell your name clearly for the record to make certain it's transcribed correctly into the record. We will use the light system today, so each testifier will be given five minutes. The green light will be on, on the table for the first four minutes of your testimony and it will then turn to amber for the last minute to give you a warning to close or wrap up your remarks. And then it will turn to red and by that time we would appreciate if you would have your remarks completed. If you would like your position to be known but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. The microphone is not for amplification of your voice. It's only to transcribe your remarks into the record. Let me introduce our staff to you. To my immediate right is legal counsel Mary Jane Egr Edson; to my immediate left is research analyst, Kay Bergquist, and to my left at the end of the table is committee clerk, Krissa Delka. And I'm going to allow the committee members to introduce themselves to you today beginning to my right at the far end of the table, Tyson Larson will be joining us a bit later. Next.

SENATOR GROENE: Mike Groene, District 42, Lincoln County.

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SENATOR LINDSTROM: Senator Brett Lindstrom, District 18, northwest Omaha.

SENATOR FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance, part of Hall County.

SENATOR BRASCH: Lydia Brasch, District 16, Cuming County, Burt County and Washington County.

SENATOR SCHUMACHER: Paul Schumacher, District 22. That's Platte and parts of Colfax and Stanton County.

SENATOR HARR: Burke Harr, Legislative District 8 representing midtown Omaha.

SENATOR SMITH: Very good. Our pages today to assist you will be Alexi Richmond, studying political science at UNL, and Heather Bentley, and Heather is studying agricultural economics at UNL. Just a reminder that senators may come and go from this meeting while we're in this room. They do have bills to introduce in other committees, so please we appreciate your patience and apologize for that disruption but that's just the way we have to do business. And with that, I think we're going to get started and our first bill to be heard today is LB215 to be introduced by Senator Burke Harr. It relates to the adoption of the Nebraska E-15 Tax Credit Act. Welcome, Senator Harr.

SENATOR HARR: Thank you, Chairman Smith, fellow members of the Revenue Committee. I am, if you do not remember, Burke Harr, H-a-r-r. I'm from Legislative District 8 and I have come with help through tax credits. LB215 creates an E-15 tax credit offering retailers a 5-cent credit on each gallon of E-15 sold. This 5-cent credit allows retailers to make the price of E-15 more attractive to consumers and encourage the use of this fuel that fuels Nebraska's economy. For those of you not familiar, E-15 is a 15 percent ethanol, 85 percent gasoline. It's like E-10 but it contains more Nebraska produced ethanol and that's good for Nebraska farmers. It's good for Nebraska ethanol plants, it's good for our economy, it's good for our environment, and it's good for America. The problem is most drivers don't know what E-15 is, don't know they can use it. You don't need a flex-fuel vehicle to use E-15. It can be used in most...any car on the road today. The EPA has officially approved E-15 for use in cars 2001 or newer. The fuel consumed by these vehicles account for more than 85 percent of unleaded fuel sold. Why is increasing E-15 use in Nebraska important? Because renewable fuels have been a great thing for Nebraska and E-15 is the key to continuing the success of the industry. The steady growth of the industry has been achieved through federal renewable standards. The federal renewable fuel standards require oil companies to blend increasing volumes of renewable fuels with gasoline and/or diesel. One of the most successful energy policies ever enacted, the RFS has created jobs, revived greater rural Nebraska, reduced imports and reliance upon terrorist countries, lowered fuel prices and most

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importantly, or as importantly, lowered air pollution. Today, now more than ever, RFS is under attack. Opponents of this successful policy continue to look for any and all legislative and regulatory means to undue the significant gains achieved since its creation. One of the myths from RFS opponent is that there is a blend wall at 10 percent ethanol, that our fuel supply can't take any more ethanol and that, folks, just simply is not true. In a state like ours that a leader in ethanol should be leading the way and scaling the blending wall in promoting the use of fuels that will push us past 10 percent ethanol and into the future. And that's what this bill does. This bill will help Nebraska demonstrate the viability of higher level blends and deploy the increasing levels of renewable fuels contemplated under the federal Renewable Fuel Standard, or RFS. The credit is capped at a million annually which would support up to twenty million gallons of E-15 at 5 cents a gallon. Now, I'm sure you all looked at the fiscal note and saw that it's at a million dollars. I would be ecstatic if we could get to twenty million gallons. I don't know if we'll get there the first time, but maybe eventually we can get there. This targeted support for our ethanol industry will grow our renewable fuel energies and in turn invigorate our state. With that, I would entertain any questions that you may have. Thank you, Mr. Chair. [LB215]

SENATOR SMITH: Thank you, Senator Harr. Do we have questions from the committee for Senator Harr? Will you remain for closing? [LB215]

SENATOR HARR: I will remain for closing, yes. [LB215]

SENATOR SMITH: Very good. [LB215]

SENATOR HARR: Thank you, Mr. Chair. [LB215]

SENATOR SMITH: We now move to proponents of LB215, those wishing to testify in support of LB215. Welcome. [LB215]

TODD SNELLER: Thank you. Senator Smith and members of the Revenue Committee, my name is Todd, T-o-d-d, Sneller, S-n-e-l-l-e-r. I serve as the administrator of Nebraska Ethanol Board and I'm testifying on behalf of the board today. Much like in the early 1970s when this body initiated a state ethanol development program, they directed the Ethanol Board to work with private sector companies to establish production facilities to work on the channels for marketing products that come from that plant. And much like 40 years ago when the concept of E-10 gasohol was first brought forward, there were a lot of questions and some uncertainty, but today E-10 is in virtually every gallon of gas that's sold in the United States. So the idea in the novelty fuel that was a concept more than a reality at that time, it is now a commercial reality. E-15 today is much the same as the E-10 gasohol, but it was in the sense that it's a new product that offers consumers an opportunity to have a higher octane, lower-cost fuel and it provides

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diversity among products in which consumers normally have to choose. We're simply trying to assist the ethanol industry today by creating more opportunities to allow consumers the choice at the fuel pump. This is not a significant incentive for the marketers who spent tens of thousands of dollars putting in a fueling infrastructure to accommodate higher ethanol blends including E-15, but doesn't incentivize them much like it did the E-10 blends that were first offered 40 years ago in this state. So I encourage you to take a look at the opportunities here for supporting an industry that provides over 1,800 jobs at the plants and probably about 3,700 jobs; generates, according to the University of Nebraska, over \$5 billion in economic activity from the 25 ethanol processing facilities that are located across the state. And it provides an opportunity here to really take some leadership on new product development in the state. We may well see other higher blends start to evolve. We've seen discussions from automakers and others promoting E-30 and E-85 blends and E-85 is a commercial reality today, but these blends are likely to continue to increase in the marketplace and somebody needs to support the ethanol industry that starts to invest in them and create marketing challenges that are viable in commercial. So I'm asking you to take a look at the possibility of investing a small amount of money. The fiscal note that was given to you, I had a chance to talk with the Department of Revenue staff. They simply didn't have access to good numbers and as a result gave you the cap. The revenue impact note that they filed was basically the amount that was written into the bill. Let me point out that there are simply 29 stations today that commercially offer E-15 and in taking a look at the amount sold at those stations over the last several days, I think this impact note may be closer to probably a quarter million dollars or less in the first year. Much like the E-10 incentives in the past, it can be sunsetted once this commercial fuel gets traction in the marketplace. So I'm asking you simply to take a look at the opportunities there are to support an industry that's important to the state, an industry that the state of Nebraska as a whole has invested in. And what I would suggest that today it's a good opportunity to further support that investment with a modest amount of money and at the same time give consumers greater fuel choices at the pump. Some of the marketers today who will testify on behalf of this bill will point out that consumers tend to respond to price at the pump and this is in all likelihood going to be one of the higher octane, lower cost fuels for consumers. Consumers that use this product are using more ethanol produced in the state of Nebraska and less gasoline that comes in from outside of the state. In the past year we have taken pains to try to calculate the cost of retaining dollars in the state when consumers make fuel choices. And we estimate that number to be about \$70 million presently by having ethanol in the Nebraska marketplace today versus being subject to an all oil mandate in our fuel choices. So again, this is an opportunity to provide choice to consumers, to support it in an industry that generates over \$5 billion a year, creates some very important high-paying jobs spread across the state. Many of those jobs located in some of our smallest communities and at the same time to be leaders in market development much the way the Nebraska Legislature was 40 years ago. In closing, I also point out that you are likely to hear some alternative facts today from those who are going to oppose this. This is the same sort of information you would have been subjected to 40 years ago if you sat at the hearing table and heard why gasohol and E-10 would not work and

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why it was not particularly good for the economy. I think it has been proven now 40 years later the state made a wise investment. The state now has 25 ethanol refineries in the state. They're producing in 2017 close to 2.5 billion gallons and generating over \$5 billion a year in economic activity. So I encourage you to take a look at the bill to consider making an investment to Nebraska, giving consumers an opportunity to spend less on fuel, and to patronize fuel products actually produced in Nebraska by Nebraska workers. That concludes my testimony, Mr. Chairman. Be pleased to respond to any questions if there are any. [LB215]

SENATOR SMITH: Senator Schumacher. [LB215]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. Does the Ethanol Board or have you done researcher computations to be able to tell us at standard temperature and pressure, zero degrees Celsius and at sea level, what volume of carbon dioxide is released into the atmosphere per gallon of ethanol? [LB215]

TODD SNELLER: The most definitive numbers have been generated by the national laboratories, national energy laboratories, and universities. And at this point, they indicate that the use of ethanol generally is going to have about a 54 percent reduction or more compared to hydrocarbons. So it's a significant reduction. [LB215]

SENATOR SCHUMACHER: Do you know the number? How big a space is...? [LB215]

TODD SNELLER: It's at least 54 percent or greater, compared to conventional gasoline. [LB215]

SENATOR SCHUMACHER: But that wasn't the question. I just simply asked, do you know the number? What's the volume of cubic feet, or...of carbon dioxide, does a gallon of ethanol produce? [LB215]

TODD SNELLER: No, sir, I'd be pleased to provide that, but I... [LB215]

SENATOR SCHUMACHER: Okay, if you could that would be... [LB215]

TODD SNELLER: ...can't swipe that off the top of my head. [LB215]

SENATOR SCHUMACHER: Okay. Thank you. [LB215]

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SENATOR SMITH: Senator Groene. [LB215]

SENATOR GROENE: Thank you, Mr. Chairman. I was under assumption there was special equipment needed for this. I don't see anything in the bill. Do the same pumps that do E-10 do E-15? [LB215]

TODD SNELLER: Senator, there's a number of ways that fuel marketers can deploy the infrastructure and in some cases they have underground tanks that are suitable for up to E-100. And if that tank exists, or a current tank that covers E-25, there's no change in the underground materials. They can take a look at abovegrounds and some of that equipment today is E-25 compatible or greater, so again no change there. In other cases there are retrofits by the major equipment providers of fuel equipment. [LB215]

SENATOR GROENE: But, most tanks that are doing E-10 can do E-15, I'm going to assume. [LB215]

TODD SNELLER: In most cases it can. What they would do is probably put a different hose on there, but most of hoses have been certified for E-15 and so there's virtually in some cases as small as a \$2,000 investment to make that compatible. To putting in brand new equipment it could be up in the neighborhood of \$40,000 for an entire flexfuel dispensing system. [LB215]

SENATOR GROENE: But they don't need to invest in any equipment to get this. [LB215]

TODD SNELLER: If they simply wanted to put E-15, it would be hoses and making sure that the... [LB215]

SENATOR GROENE: But they don't have to document that, if they start selling it they can apply for the credit. [LB215]

TODD SNELLER: The Fire Marshal tends to go out and make sure that it is certified equipment. Their insurers require that it's certified equipment. [LB215]

SENATOR GROENE: But in statute here, you do not have to document a cost of equipment to get the E-15 credit. [LB215]

TODD SNELLER: Correct. The documentation of equipment cost is not required. We do see documentation of that under a program that the Nebraska Energy Office is currently

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administrating with some private sector dollars from Nebraska and with some public dollars from the U.S. Department of Agriculture. We see all that documentation come into us as this new equipment is being installed. [LB215]

SENATOR GROENE: And you said earlier that some are already marketing this. [LB215]

TODD SNELLER: Yes, sir. [LB215]

SENATOR GROENE: And they now apply for this same credit even though they're already in the market. [LB215]

TODD SNELLER: I believe the effective date of that is not until 2018 when they're making initial sales of that. They are in a position where they could. There are a number of companies in the state that could...that today would comply if that was effective today. [LB215]

SENATOR GROENE: Thank you. [LB215]

SENATOR SMITH: Further questions? I do have a...relative to E-10, what is the cost of E-15 if you want to put that on whatever basis you want to put that? I'm just trying to get an understanding of the comparison between those two. [LB215]

TODD SNELLER: At retail today, it sells for about 15 cents a...well, excuse me. It sells about another nickel lower than E-10. So E-10 today is going to sell at a significant discount to gasoline. E-15 would be another nickel lower than the E-10 prices that one sees at retail stations. [LB215]

SENATOR SMITH: So would that not provide the necessary incentive that you're looking for with this bill? [LB215]

TODD SNELLER: It provides consumers incentive to use that product. Today what we see is that the marketers who are, in my view, the most astute marketers who are actually trying to build business with a new product are using the qualities of that new product including a lower price to attract new consumers. If a retail marketer has an astute marketing program and builds new volume and gets new customers in there, many of those people stop in to their convenient stores and so they're able to increase in-store sales. So part of this is an overall marketing strategy that by passing along some of the incentive to the customer, they're going to probably generate increased volume sales, increase traffic to their stores. So what we've seen is that the most astute marketers in Nebraska and surrounding states today are passing along that lower cost

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to consumers in order to increase volume sales and in-store sales at their convenience locations. [LB215]

SENATOR SMITH: So this is to supplement a market strategy as opposed to providing competitive advantage for our production of ethanol in the state, so it's more of a marketing strategy that we're using these credits for. [LB215]

TODD SNELLER: It could be viewed that way. I view it as a way of offsetting these incremental investments in new infrastructure. We are seeing in the case of some of the applicants applying for these funds today that are part private and part public. Oftentimes a new flexfuel dispenser for example is going to run \$41,000. And so, if you've got a new product you're not going to be putting a lot of volume through for that specific product and so you hope to build to the point where you are increasing volume sales with all the products sold at that dispenser, but the E-15 today is in part a new product and it's one that requires some additional infrastructure investment. So I view this as an offset for those who are taking the risk of adding infrastructure at their cost and hoping they can recoup that down the road. [LB215]

SENATOR SMITH: Okay. Senator Friesen. [LB215]

SENATOR FRIESEN: Thank you, Chairman Smith. You know, E-15 has been around for quite a while and what do you feel is the one biggest impediment for stations to offer it? What is the...I know there's numerous reasons sometimes they give, but what would you say is the number one reason? [LB215]

TODD SNELLER: Well, I'll be very frank, Senator. I strongly feel that one of the biggest obstacles is some of the impediments that some elements of the petroleum industry have established. It's the same thing as E-10, very difficult in many cases to offer a new product like that. Former representative, Virginia Smith, for example, authored and was able to get enacted the 1980 Gasohol Anticompetition Act because of all the anticompetitive steps that were taken to keep E-10 out of the marketplace. We see the same thing today with E-15 whether it be standards or brand agreements or misinformation, there's an enormous campaign underway to try to discourage retailers from offering this new product. There's concerns raised about liability. There's concerns raised about damage to cars. So it's all the same thing. If you read transcripts from 1981, you would hear exactly what is said today playing the E-15 versus E-10. So I think it's, frankly, a desire on the part of those who control the marketplace to simply not allow access where they can control that. So I look at the entrepreneurs who have taken these steps to take the additional risk to offer this new product, much like people did 40 years ago with E-10. And it seems to me given the fact that they're offering their product we produce here in the state and



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offers a host of benefits to consumers, we'd ought to consider supporting that. Makes good public policy. [LB215]

SENATOR FRIESEN: When new products are offered like this, is there testing done first? [LB215]

TODD SNELLER: The testing is typically done by making sure that you meet a checklist of hitting specification equipment, make sure that your underground storage facilities in good line, make sure you've had discussion with the Fire Marshal, with equipment vendors, and working with an engineer on impact statements. [LB215]

SENATOR FRIESEN: How about the fuel itself? [LB215]

TODD SNELLER: The fuel itself is typically a product that is provided at the terminal. There can be some off-site blending, but typically this is a product that can be managed with...it's conventional gasoline. That conventional gasoline that's offered today in most cases cannot leave the terminal before it has at least 10 percent ethanol added to it, very low octane-blend stock. It is not a commercial grade fuel. It's got to have E-10 added before it can get out of the terminal gates. So adding E-15 basically adds to a certified fuel another 5 percent volume ethanol. [LB215]

SENATOR FRIESEN: E-15 itself, has it undergone testing to make sure that... [LB215]

TODD SNELLER: It has undergone perhaps the most rigorous testing we've since E-10 was introduced in the marketplace. Literally millions and millions of miles of testing by private companies and by the U.S. Department of Energy and the Environmental Protection Agency before they came out with two different statements. First saying, it was perfect for use in anything 2007 and newer, and then saying, any model year, car or truck that was 2001 or newer, so that's the testing that's been done to certify that people need not be concerned about this. You can hear testimony from one in favor of the bill that will speak later who will talk about the rigorous testing that they've done, talked with consumers after millions of gallons of sales to make sure the feedback they're getting validates what I have just told you. [LB215]

SENATOR FRIESEN: Thank you. [LB215]

SENATOR SMITH: Oh, I'm sorry, Senator Brasch and then Senator Groene. [LB215]

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SENATOR BRASCH: Thank you for coming forward today and I'm curious because in the past there has been legislation to help promote ethanol and I've also said before I drove a 2001 vehicle for ten years, used only the E fuels back then. When I sold it, my mechanic bought it. I mean it...and I still see the vehicle running today in Bancroft. But the pushback at one point was more from the petroleum marketers, but I thought there was...is there better cooperation because when I pull up to the tank I see all of the above anymore and not one is promoted over the other from the...is there a problem on why do you need an incentive, I guess, is my... [LB215]

TODD SNELLER: Part of this is again that those who are moving forward with these new products whether it was E-10 40 years ago, or E-85 15 years ago, or E-15 today, is that there's some additional cost associated with making that product available at the pump. And so these are the sort of programs that simply seeding a new product or seeding a new industry that's providing other benefits to the state. So I think in large part this is simply an investment in helping support those who are willing to take that risk in bringing those products to the marketplace. I think in a short time we'll probably see a lot more marketers. It will be easier as more and more of these products get into the marketplace. [LB215]

SENATOR BRASCH: And on my part, the most troubling is indeed the fiscal note. And if you're saying it is maybe \$250,000 or what do you think a more realistic... [LB215]

TODD SNELLER: I personally believe that at this point in time it is below \$250,000. I don't know how much below that, but if the only impediment to moving this bill forward is a million dollar cost on it, consider putting a cap. I was sought out to provide input because of my experience in this area and I suggested one of the ways to address this issue in the budget environment you're all facing today is to simply put a cap on this so you know what the cost is. If that cost is unacceptable, considering a lower number simply continues to set a precedent and provides incentive here, but bring it down to a number that you believe is palatable, so that's... [LB215]

SENATOR BRASCH: And then my final question on this would be, isn't there a checkoff program that already provides funding for promotion? Are you not receiving any other promotional dollars from any other source besides...? [LB215]

TODD SNELLER: A portion of the Ethanol Board's budget, which is a cash-funded agency, all those funds come from the ethanol producers themselves. [LB215]

SENATOR BRASCH: Okay. [LB215]

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TODD SNELLER: Part of the Ethanol Board's money goes into marketing and promotion, and so we work with a very diverse group of marketers on marketing and promotion. But our budget this year is about \$550,000 a year. We can't really move the needle very far with that portion of it that's dedicated to marketing. The Corn Board has been terrific partners. Many of the private companies that we work with on marketing of biofuels provide funding to support that look. [LB215]

SENATOR BRASCH: So the Corn Board has been contributing. [LB215]

TODD SNELLER: Absolutely, there's a very good collaboration between ethanol producers, some of the private fuel marketers, Corn Board, and the Energy Office has been very helpful lately too. [LB215]

SENATOR BRASCH: All right, because it is my hope that through the Corn Board and that entity that in this fiscal environment that perhaps that would be a better resource, but it's still not enough is what you're saying. [LB215]

TODD SNELLER: This is...again it's a relatively new product to launch that. It's an expensive proposition to overcome a lot of the misinformation that is being sent out to consumers. And so I think it's a need to be with the consistent message in the marketplace and that's a costly enterprise. And so we try to be frugal, have a lot of partners, but it's an expensive process to launch a new product. [LB215]

SENATOR BRASCH: Absolutely. Thank you for your testimony. [LB215]

SENATOR SMITH: Senator Groene. [LB215]

SENATOR GROENE: Thank you, Chairman. So you said there's 20 plants in Nebraska? [LB215]

TODD SNELLER: Twenty-five ethanol refineries in...(inaudible). [LB215]

SENATOR GROENE: What's the annual production? [LB215]

TODD SNELLER: In 2016, hit about 2.2 billion gallons. [LB215]

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SENATOR GROENE: I'm a proponent of ethanol but I'm also free markets. So you got a mature industry now. It's on its own, it's not using federal. [LB215]

TODD SNELLER: That's correct. There are no federal incentives or state incentives given for ethanol production. [LB215]

SENATOR GROENE: So why, you know, you see other industries to promote their product and increase their sales, they come up with an incentive for the retailer themselves. So why can't you guys fund your own incentives for somebody to increase your sales by selling 15 percent over ten. Why does the government have to be involved here? [LB215]

TODD SNELLER: I think if one, in my opinion, if one examines whether or not this is good public policy for Nebraska, what we have seen is an industry grow because the Legislature provided a foundation for that growth, and the private sector responded to that. It was a seeded enterprise that grew into something very big and valuable to the state's economy today. In much the same way if this body would choose to seed a marketing of this new product, it would grow on its own, you sunset it in a relatively short period of time, you don't spend much money overall, but you launch a new product that is produced by companies in the state you have already vested in, and at the same time will end up saving consumers money at the pump. So I think you've provided a public service not only for consumers... [LB215]

SENATOR GROENE: Do you...does this 5 cents come out of the fuel tax or come out of our General Fund? [LB215]

TODD SNELLER: I believe the source at this point is General Fund. I'm not positive. [LB215]

SENATOR GROENE: Have you thought about... [LB215]

TODD SNELLER: I think ultimately that's probably the decision of this committee. [LB215]

SENATOR GROENE: All right. Thank you. [LB215]

SENATOR SMITH: Senator Schumacher. [LB215]

SENATOR SCHUMACHER: Thank you, Chairman Smith. If it's a tax credit, we never see the money so it doesn't come out of any fund and we can't account for it very easily. So, I guess, first question would be why not just set up a grant program, we put a million dollars in, however

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much we want to spend, and somebody applies for some type of grants, we can keep track of the money? [LB215]

TODD SNELLER: The mechanism is certainly something you may be far more...I suspect are far more well-qualified to determine than me. [LB215]

SENATOR SCHUMACHER: Okay. If I owned a gas station and my storage tank underneath ran empty, what would I have to do different to pick up the phone, instead of saying bring a truckload of E-10 out here, say bring a truckload of E-15 out here? [LB215]

TODD SNELLER: If that was a relatively new tank put in in the last 10 or 12 years, it probably is a tank that can easily accommodate E-15. The aboveground investment would be slightly different then. You'd be taking a look at probably putting in some new hoses, maybe some modified metering, maybe some additional signage on the pumps, so it could be a relatively small cost in many cases, but you're going to have to make space at that dispenser for this new product. [LB215]

SENATOR SCHUMACHER: Well, I just want to offer you 15, so, I mean, why can't I just put it in the E-10 tank and maybe put on a little higher-grade hose? I'm not sure why we need a higher-grade hose if the thing isn't...is no more corrosive than E-10. [LB215]

TODD SNELLER: You could do that. The transportation service's dispenser located by the east garage across the street here, in September, did precisely what you've outlined. Had an E-10 dispenser and E-15 now is the only fuel comes out of that dispenser for state vehicles. [LB215]

SENATOR SCHUMACHER: So for all practical purposes, it's easy for a retailer to shift from one to the other if they want to forego...I guess if they had two tanks for E-10, they maybe could have one nozzle, a button with E-10, one E-15. But...so are we just buying advertising with this money? [LB215]

TODD SNELLER: Literally, it's like shelf space. You're going to make a decision, are your customers going to want an 87 octane E-10 blend because they've heard something about E-15 and don't want to come to your station if that's the only product you sell, or they've heard something good about it but they want the option of E-10 or E-15 or E-30 or E-85, as a marketer you're going to make that decision. What shelf space do you want to allocate for which products and much the same way, which of those dispenser nozzles and handles are your consumers going to gravitate toward? So some of these marketers are saying we believe there's advance for this product, let's make room for it. Let's expand the dispenser, let's put in a new hose and make sure

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that we have an additional product or products to sell. You can do it in a low cost, you can do it at a higher cost. It depends what products slate, whether it's two or five products or in-between. What do you want to do in terms of offering products to your consumers? [LB215]

SENATOR SCHUMACHER: So it's just, I mean, if the product is just as good, I don't need any new equipment really if I want to shift from E-10 to this, it doesn't cost me much to do it, then...and then the only barrier to doing it should logically be the overcoming the customers' reluctance to using E-15 over E-10 and that's an advertising problem. [LB215]

TODD SNELLER: Unless the supplier of your gasoline has a brand agreement that precludes you from doing what you've just outlined. [LB215]

SENATOR SCHUMACHER: So is there agreements that say I have to buy E-10 and I can't buy E-15? [LB215]

TODD SNELLER: There are agreements that preclude the sale of E-15. [LB215]

SENATOR SCHUMACHER: And are those regulated by whom? [LB215]

TODD SNELLER: The oil companies that offer that fuel. [LB215]

SENATOR SCHUMACHER: Should we just pass a law saying that if somebody wants to buy E-15, they can do it and save ourselves a million bucks? [LB215]

TODD SNELLER: That would be sensational, I suspect in the eyes of a few, maybe even the eyes of many. [LB215]

SENATOR SCHUMACHER: Well, I mean, if the stuff is just as good and there's these restraints on trade, it would seem to me, that we can do pretty cheap. I just...we can even write up that law. [LB215]

TODD SNELLER: The rationale for moving the state this way is that we can sell more ethanol at a lower cost and not invest much money in retrofitting that facility over there. The state is in the process of retrofitting other state facilities like that, but those are not commercial. There's literally one product sold that does and you won't see that kind of a configuration at retail sales, sales locations. [LB215]

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SENATOR SCHUMACHER: Thank you. [LB215]

SENATOR SMITH: Senator Brasch. [LB215]

SENATOR BRASCH: Thank you, Chairman Smith, and I just now have this question after Senator Schumacher's question. Can the consumer see a difference in performance moving from E-10 to E-15, miles per gallon, or is there...is it better or worse? [LB215]

TODD SNELLER: The miles per gallon are going to be nominally the same. You would have more of an impact if your window was rolled down than you would between E-10 and E-15. If you've got a higher...a newer engine, a higher compression engine that can operate more efficiently on a higher octane fuel, it's a higher octane fuel. So if the engine can use that octane that's in E-15, it's a lower cost, so you're going to see a fuel savings. So from the standpoint of performance and economy and all, you will probably decide you're going to continue patronizing E-15 versus E-10, given the choice. [LB215]

SENATOR BRASCH: So it would improve a newer vehicle's mileage and performance. [LB215]

TODD SNELLER: The best test of that is, what are we seeing in the sales trends by those companies who will testify today when they've offered that product and what they're going to see is an ongoing step-up, step-up, step-up, step-up every month in sales if they have a good marketing program and they're making that fuel readily available to consumers at a competitive price. They're going to see...they're seeing a step-up in sales. The best indicator to us that consumers are, in fact, choosing that product when given a choice. [LB215]

SENATOR BRASCH: Very good. Thank you for your testimony. [LB215]

SENATOR SMITH: Thank you, Mr. Sneller, for your testimony. [LB215]

TODD SNELLER: And generous of your time, thank you. [LB215]

SENATOR SMITH: We now move to the next proponent of LB215. Welcome. [LB215]

JASON BASSETT: Chairman Smith, members of the Revenue Committee, my name is Jason Bassett, J-a-s-o-n B-a-s-s-e-t-t. I'm the Government Affairs director for Kum & Go convenience stores. We are the fifth largest, privately held, company-operated convenience store chain in the U.S. What started as a single gas station in Hampton, Iowa, has grown into more than 430

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convenient stores in 11 states. We operate more than 20 stores in Nebraska, located in Omaha, Bellevue, Gretna, Papillion, South Sioux City, and Columbus. We have invested significantly in Nebraska and in renewable fuels. We offer E-15 at ten of our stores in the state. Just in the last five years, Kum & Go has spent more than \$13 million to install ethanol tanks, blender pumps, and related fueling infrastructure across our footprint. We are proud to offer consumers a range of fueling choices and to support the sales of homegrown, environmentally beneficial products that can be used by more than 80 percent of cars on the road today. Since Kum & Go debuted E-15 in April 2015, 3.8 million gallons...we have sold 3.8 million gallons, which represents nearly 80 million vehicle miles driven. Our customers have reported no engine issues or misfueling claims, the same mileage and superior performance due to higher octane, all while saving money. Presently, there are no federal or state level renewable fuel incentives in Nebraska. Kum & Go is headquartered in Iowa and as the number one ethanol producing state, Iowa offers a robust set of renewable fuel tax credits, one for E-15, one for E-85, one for biodiesel, and has its own state renewable fuel standard. These policies have worked wonderful in Iowa helping to grow our renewable fuels industry and make quality homegrown, value-added fuel products available to drivers across the state and those who cross the state. The E-15 tax credit in Iowa has been especially beneficial to the renewable fuels industry. The credit helps the price which helps encourage consumer adoption. We know the credit works. We're offering the same products in Iowa and Nebraska. In Iowa where we had the credit, average store sales of E-15 are higher than the average store sales of E-15 in Nebraska. We also know that once our consumers try the product because of a better price, they keep using it. Following a one-day promotion offering E-15 in Omaha for \$1.15--we did this in September--weekly sales increased fivefold. The discounted price drove additional trials of E-15 and was very effective in converting some consumers on a long-term basis. Just like it took time and effort to make E-10 a popular fuel, it will take the same time and effort and initiative to make E-15 a mainstream fuel. The results on E-10 have been great for renewable fuel producing states like Nebraska, and E-15 is this next step. Businesses have invested heavily to get E-15 to consumers, but more needs to be done. A further price differential is needed to get drivers' attention. We believe that cost is the best educator. Growing consumer confidence in E-15 is instrumental to sustaining the renewable fuel standard. This RFS is vital to the economic growth of Midwestern states like Nebraska. While its position as the number two producing ethanol state in the nation, Nebraska should make it a priority to support renewable fuels, specifically higher blends of ethanol. Creating a modest E-15 incentive in Nebraska will go a long way to supporting this critical policy. We respectfully suggest that the committee support this bill and I look forward to your questions. [LB215]

SENATOR SMITH: Thank you, Mr. Bassett. Do we have questions? Senator Groene. [LB215]

SENATOR GROENE: You're free market, let's make a buck. Why did you do E-15? It had to be a market decision. [LB215]



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JASON BASSETT: It's a market decision because the majority of our stores are based in the Midwest and strong Midwest economy equals strong store sales for us. [LB215]

SENATOR GROENE: Is there a better margin on your E-15 than your E-10? [LB215]

JASON BASSETT: In Iowa, for example, where we have a 5-cent differential, we offer it for cheaper than the E-10 product. The margin difference is nominal. [LB215]

SENATOR GROENE: So you just did it because you're a good citizen? [LB215]

JASON BASSETT: We believe in supporting the communities where we serve...where we have locations, and being founded in Iowa, we've been selling biofuels for 30 years. [LB215]

SENATOR GROENE: So you're selling what the consumer wants. We're an ag economy and we want to support agriculture, so we buy E-15, or we look for a pump that says E-15. So then why do you need an incentive because your incentive is to attract the customer to E-15? [LB215]

JASON BASSETT: Well, I think some consumers are savvy enough to find a pump that says E-15, some people, like was previously stated, shop mainly on price. And having a reduced price, I mean gas is one of the few products that you know what the price is from the street and seeing a lower price on the price sign makes a big difference in getting people to use the fuel, and then there's certainly benefits then if people visit your store. [LB215]

SENATOR GROENE: So what you're saying, if that marketing angle, that some people don't know what they're putting in their tank, they just look for that price. And by doing E-15, you can be cheaper on the product than your competitors. [LB215]

JASON BASSETT: Well, I think, first of all, a jeweler taught me this once that cheaper refers to quality and expensive refers to price. But...so I think offering a less expensive fuel is... [LB215]

SENATOR GROENE: On that sign outside. [LB215]

JASON BASSETT: Correct. And you know where we have E-15, we have it at multiple islands so it's not like it's just available at one spot. And we differentiate between color of hose for whether it's E-15 or E-85 or other products. [LB215]

SENATOR GROENE: All right. Thank you. [LB215]

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SENATOR SMITH: Senator Friesen. [LB215]

SENATOR FRIESEN: Thank you, Chairman Smith. So when you...I take it at some point in time you had to convert your equipment over to be able to dispense E-15. Was there a major cost doing that? [LB215]

JASON BASSETT: Well, as I said, we've spent a considerable amount of money rolling out E-15. In the places where we were current, we're already selling E-85. Wanting to give consumers fuel choice, we invested in blender pumps so we could offer the E-10, the E-85, the E-15, a premium which contains no ethanol, and a regular 87 product that contains no ethanol. So where we had the underground infrastructure, we added a blender pump. Where we didn't have the underground infrastructure, we had to add a new tank and then the blender pump up top just to give consumers the choice. [LB215]

SENATOR FRIESEN: So you had a considerable expense switching over on... [LB215]

JASON BASSETT: Where we didn't have...I mean, the tanks are expensive. Breaking concrete is expensive, so. [LB215]

SENATOR FRIESEN: Yeah. Okay. Thank you. [LB215]

SENATOR SMITH: Other questions from the committee for Mr. Bassett? I see none, thank you. [LB215]

JASON BASSETT: Thank you. [LB215]

SENATOR SMITH: Next proponent of LB215. Welcome. [LB215]

DENNIS FUJAN: Thank you. Thank you, Chairman Smith and members of the Revenue Committee. My name is Dennis Fujan, D-e-n-n-i-s F-u-j-a-n. I'm here on behalf of the Nebraska Farm Bureau and the Nebraska Soybean Growers Association to testify in support of LB215, a bill sponsored by Senator Harr, to adopt an E-15 tax credit here in Nebraska. And I'd like to, at this time, thank Senator Harr, too, for bringing this bill forward. According to the University of Nebraska-Lincoln, the ethanol industry contributes \$5 million per year to Nebraska's economy. Nebraska is the second largest producer of ethanol in the nation and houses a number of businesses which create products used in ethanol production. Novozymes in Blair, Nebraska, for instance, employs 120 people making industrial enzymes used in the production process. Nebraska would not be alone in creating incentives for more deployment of renewable fuels.

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Seven states, including Montana and Missouri, actually require ethanol to be blended with fuel supply. Other states, including Iowa and Kansas, provide incentives to ethanol retailers. Our organizations and members support a state affirming its amendment to first generation and advance biofuels. Providing a tax credit for the further deployment of E-15 will provide consumers with more choice at the pump and eventually a competitive market will be the driving force behind economic success. As renewable fuels industry grows and develops, well-paying jobs and economic opportunity ensue. We would like to see Nebraska on the front lines of innovation and believe this tax credit is a step in the right direction. Thank you for your time and I'm happy to answer any questions if I can. [LB215]

SENATOR SMITH: Do we have questions from the committee? I see none. Thank you, Mr. Fujan, for your testimony. [LB215]

DENNIS FUJAN: Thank you very much. [LB215]

SENATOR SMITH: Next proponent of LB215. Welcome. [LB215]

SETH HARDER: Chairman, Senators, my name is Seth Harder, S-e-t-h H-a-r-d-e-r. I'm the general manager of Husker AG, LLC, in Plainview, Nebraska. I'm here today to offer testimony on behalf of Renewable Fuels Nebraska, a trade association representing ethanol producers across the state. Nebraska is the number two ethanol producing state in the nation. We have 25 plants and representing \$5 billion in capital investment that employ 1,300 full-time workers. We're producing a little over 2 billion gallons, as you've heard already, and 6 million tons of distillers grain which is a high protein feed. I would make a note that, you know, in the last ten years, Nebraska has taken over Texas a time or two as the number one state for cattle on feed. You can trace that back to the ethanol industry in part. I heard a bit today about the blend wall. Our board took on an initiative in 2011 at Husker AG to move past the blend wall. We chose to take some of our capital and invest that in local communities. Our plant in Plainview has worked with retailers at 11 different stations to install blender pumps that offer E-15, E-30, and E-85. Through our partnerships, these higher level blends are now available in Osmond, Hartington, Creighton, Crofton, Valentine, Norfolk, Plainview, Pilger, and two locations in Pierce, Nebraska. Fueling infrastructure is a big investment. New pumps cost \$80,000 to \$90,000 for a retail location. If you have to break the concrete, it's \$200,000 to get a tank in. With each of those stations that we partnered with, we did a grant with them for \$25,000 to \$35,000 per station of our own capital. Under our agreement, these partners offer blends for up to five years with us. We are given the opportunity to supply that fuel directly from the plant to the retail location, but we are not the exclusive suppliers. While we are very happy to have these higher blends available, we still have work to do to get consumers familiar with these fuels. Even though E-15 can be used in most...by most drivers, most drivers are not using it. At our partner locations,

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E-10 continues to be sold at ten times the rate of E-15. The new lower prices in conjunction with advertising and promotion efforts will boost E-15. This incentive will be very helpful in attracting consumers in getting gallons flowing through the infrastructure we have worked so hard to help build. As the number two ethanol state, I feel strongly and its important for Nebraska to show leadership in renewable fuels. How does Nebraska do this? By demonstrating E-15 is safe. It's a safe and reliable fuel. To date we haven't had any issues with the fuel at any of the retail locations that we've been selling to for the last few years...last four years on E-15. Haven't had one engine-related failure, fuel pump failure. Nebraska ethanol plants utilize more than 700 million bushels of corn every year. We are proud to be a direct, high-value market for Nebraska's abundant corn supply. There are a number of ways to increase capacity in ethanol plants across Nebraska including the adoption of new technologies. If given an increased market for ethanol such as increased demand for E-15, Nebraska ethanol plants would respond by increasing our production, in turn utilizing even more corn. More demand for corn means higher commodity prices across the board. As members of the Revenue Committee, you're well aware that a main reason for our state's fiscal downturn has been falling commodity prices. By spurring E-15, you're really spurring the ag economy and helping to address the root of our shortfall. In summary, LB215 is good for growing Nebraska. How can we expect other states in the nation to go beyond 10 percent if we don't start here first? Thank you. [LB215]

SENATOR SMITH: Thank you, Mr. Harder. Questions? Senator Brasch. [LB215]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Herder. [LB215]

SETH HARDER: Harder. [LB215]

SENATOR BRASCH: Harder, I apologize. I am a tremendous ethanol fan. We use it, we grow corn. What caught my ear is what I'm really curious about is when you...do you believe it will raise the commodity prices, it will change the Chicago Board of Trade? You know, we listen intensely every morning and every evening on what corn will sell for. Will that, because of this promotion...I mean, but economic development, I think we should expedite this. [LB215]

SETH HARDER: I mean, I think going from E-0 to E-10 had an impact and I think over the last ten years we've seen anywhere from 50 cents to a \$1 a bushel. I think that, you know, you have to start somewhere. Two years ago I was in D.C. and what I kept having asked of me was, why would we--other states--go over 10 percent if you guys won't? And so we've tried to go over 10 percent and we're working there, you know, but I think that this is a way for us to move to that...move the needle past 10 percent quicker. And if you're looking at 50 cents to \$1 a bushel, I do believe it could help the price of commodities. [LB215]

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SENATOR BRASCH: Sounds wonderful. It really does, I mean, because something needs to be done, but I'm just wondering that what we can do here can affect Chicago Board of Trade. But it would take more states, is what you're saying, that we could be the... [LB215]

SETH HARDER: I think that we have to be leaders. There is no petroleum refineries in Nebraska. You know, I grew up here, grew up in Laurel, Nebraska, not very far from Bancroft. My roommate was from...(inaudible). [LB215]

SENATOR BRASCH: I know where Laurel is. You're just a... [LB215]

SETH HARDER: So I wanted to stay because I'm not a family farmer. There is...my parents were mechanic and a nurse and ethanol gave me an opportunity. [LB215]

SENATOR BRASCH: It is great opportunity, not disputed, but I...and if it will sell more, then I think we need a lot of energy behind this to make some change, but. [LB215]

SETH HARDER: I think we have to be a leader. I think that...you know, Iowa is doing a good job, but we're number two again. [LB215]

SENATOR BRASCH: We're number two? [LB215]

SETH HARDER: In ethanol production and we have to do our part to help move that needle. And just because we're not the number one ethanol producer doesn't mean that we can't percentagewise be the number one consumer. [LB215]

SENATOR BRASCH: And who is the number one consumer? [LB215]

SETH HARDER: I don't know exactly who that would be today. I know that, you know, we're right around 10 percent, but I don't know who that would be. It could be us. [LB215]

SENATOR BRASCH: Okay. I appreciate your testimony. I believe it's a good product. Again, at this point in time it's just that fiscal note that's looming over us. [LB215]

SETH HARDER: And I understand that. And I think when we back up to...an obviously, you guys are the experts on that particular part, but it seems to me when you go back and look at a dollar turning seven times in the ethanol industry in the state of Nebraska versus not being able to refine our own petroleum here and those dollars leaving immediately, it seems to me at a

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80,000-foot view this might be a tough sale today, but I think five years from now you look back and go, that was a good move for Nebraska. It helped us to continue to move along. [LB215]

SENATOR BRASCH: I appreciate it and I do hope that, you know, we can sell a lot more of our product, so thank you so much. [LB215]

SENATOR SMITH: Senator Friesen. [LB215]

SENATOR FRIESEN: Thank you, Chairman Smith. Do you have any idea of how many gallons of our production are exported out of Nebraska? [LB215]

SETH HARDER: Well, I believe our current consumption in Nebraska is around 700 million gallons and I believe that around 9.8 percent is about where we fell, so I believe that I would have to back the amount off of that, but I think we're using 70 million gallons out of the 2.2 billion gallons at this point and I don't feel that's an acceptable amount given that we are making a refined product here in this state and bringing other refined product back in. I mean, we don't even have to get into a carbon debate about how that doesn't make any sense but, you know, just from a simple logistics that doesn't make any sense. And again, I go back to an NPPD study done several years ago that that dollar turns seven times once it gets into our chain. [LB215]

SENATOR FRIESEN: So if we got our usage here to E-15, we could increase what we use in the state another 50 percent over what we're doing, but you're saying we're roughly at 10 percent blend right now across the state. [LB215]

SETH HARDER: Yes. [LB215]

SENATOR FRIESEN: Close enough, and so this would push it up to that E-15 level would add another 50 percent of usage. And you're right, those dollars rotate around. So down the road, what kind of blend do you think some day we'll end up at? Do you think E-15 is the last jump we'll make? [LB215]

SETH HARDER: Well, I believe that, you know, eventually an E-25 makes sense. If we don't take care of the upper Midwest for ourselves, you know, if we don't start here, you know, who is going to? And so I believe that potentially a 25 percent makes sense. If you look at Brazil, they've already modeled that. They've done it. It makes...it works for them. Internal combustion engine is an internal combustion engine that corrosive issues just aren't there anymore. The fuel quality is higher than it's ever been. We're one of the most tested industries because we're a new industry. So we're highly regulated for quality. [LB215]

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SENATOR FRIESEN: So is some of our ethanol export internationally too? [LB215]

SETH HARDER: Yes, it is. [LB215]

SENATOR FRIESEN: So, I mean, if we can export it for someone to use on the international, the shipping alone...if we can use it here, obviously, it's a big advantage of not having to bring in oil and burn it here. [LB215]

SETH HARDER: I believe so and not to mention the other benefits that come from the ethanol industry, I didn't mention corn oil. Today we're supplying the biodiesel industry, the poultry industry, with that distillers corn oil that we're bringing off the process. Our plant in Plainview is a 80 million gallon plant. It produces 20 million pounds of crude corn oil a year, distillers corn oil, so. [LB215]

SENATOR FRIESEN: Thank you, Mr. Harder. [LB215]

SENATOR SMITH: Senator Groene. [LB215]

SENATOR GROENE: So you said you started...your ethanol plant started their own grant fund. If you would put a pump in, you would pay up to \$25,000 of the cost. So you guys have that program. Do you limit it to how many dollars or...? [LB215]

SETH HARDER: It's typically based on, you know, if they put one or two dispensers in and if they put some advertising in, it's kind of on a case-by-case, but that's the range. [LB215]

SENATOR GROENE: And then I buy a lot of my products in rural Nebraska through Cenex stations. That's a farm co-op. What's stopping them from going E-15? Every station I stop at has E-10. There's no major petroleum company telling Cenex not to support ag and go all E-15. What is the barrier here? Is there still the thought that E-15 doesn't do miles per gallon as good as E-10 which doesn't do as good as premium? [LB215]

SETH HARDER: So we've done a lot of promotion days in conjunction with the Corn Board or in conjunction with other groups, and I've worked a lot of those promotion days. And my dad and my brother are mechanics and so what we hear all the time is, what kind of damage is this going to cause? And it is even amazing to go to brand new car dealerships that are warranting these vehicles and, you know, if you don't tell them you work in the ethanol industry, it doesn't take very long for you to get, you know, maybe that ethanol is not so good and, boy, don't go over 10 percent. We need to overcome the misinformation. Again, we haven't had one issue with

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a fuel pump to date, and we've been selling E-15 at some of our locations for five years now. [LB215]

SENATOR GROENE: So...but still doesn't answer why you don't have Cenex with all E-15 pumps already. I mean, that's farm fuels. [LB215]

SETH HARDER: I believe Cenex...Cenex had a restriction that they could not put E-15 in. That was one of the reasons we do not no longer market ethanol with Cenex. We actually cited that with them and said you guys don't support...now I need to clarify that. They have an ethanol marketing branch that use to market ethanol for Husker AG nationally. [LB215]

SENATOR GROENE: All right. [LB215]

SETH HARDER: We no longer do that with them and that's what we cited with them is that you guys don't support E-15. They've since rescinded that, I understand, and that they do support E-15 now, but for a long time they didn't. It was...E-15 for quite some time was actually considered an illegal fuel by some. We talked to the retailer in our area that's a large chain across the Midwest and they told us, we said, hey, we've got this program, we'll put these pumps in with you if you're interested. And right away we were told that E-15 is not a legal fuel for sale in the United States. So that was just, I think, two to three years ago that that changed, and, you know, here we are today, we're still facing a ton of adoption walls, just misinformation. [LB215]

SENATOR GROENE: All right. Thank you. [LB215]

SENATOR SMITH: Senator Schumacher. [LB215]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for your testimony. This fiscal note is a million dollars. In the real world, a million dollars isn't very much money, but you're asking it when you come here to a bunch of starving Armenians who are a billion dollars in the red. Why doesn't the industry just...I mean, if it's going to make things grow and it's going to lead the way, why don't you just come up with a million dollars (inaudible)? [LB215]

SETH HARDER: And so we are. We, Husker AG is also a part of an association, a group of association companies that are in Prime the Pump and we have...I don't have the numbers today, but it's, I think it's over a hundred million dollars that we've spent across the United States supporting E-15 infrastructure and sales. That program is aimed at the high population centers. You know, I think 50 percent of the population lives within 50 miles of the coast and so we have that program. But again, you know, if you go to Washington, D.C., you're probably going to get



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asked, well, if you guys aren't over 10 percent, why do you expect us to be over 10 percent? So again, it goes back to leadership here in Nebraska. [LB215]

SENATOR SCHUMACHER: And I compliment you for your leadership and your investment from the private sector. [LB215]

SENATOR SMITH: Further questions? Thank you, Mr. Harder, I see none. [LB215]

SETH HARDER: Thank you. [LB215]

SENATOR SMITH: Next proponent of LB215. Welcome. [LB215]

CHARLIE BOSSELMAN: Hello, Senator Smith and the Revenue Committee. My name is Charlie Bosselman, C-h-a-r-l-i-e B-o-s-s-e-l-m-a-n. I'm president of Bosselman Enterprises and Pump and Pantry convenience stores, and hopefully you'll bear with me because I've got these notes but I have a hard time following the rules so I don't usually follow notes. So I think I have a unique perspective on this whole thing. I think you've talked to people from out of the state. You've talked to people with...from the different political organizations and that. I'm ultimately the guy at the end that would deal with this thing. And I think we have a unique perspective in the fact that, you know, I'm a third generation in the business of selling gas to our customers, whether it be truck stops, convenience stores, gas stations, what they used to be called, but my family has been doing it for 70 years, so we've been through everything in this industry. But we also come from a farming background. My family has farmed their original homestead for 140 years, so we have a toe in the farming industry and a commitment to that. We've got a toe in the fuel business and a commitment to that and our customers. Right now our convenience stores pump about 50 million gallons of fuel a year. We have 44 locations and all of them sell E-10. A third of our locations, about 13 locations, offer blended ethanol products and that's in St. Paul, Albion, Ainsworth, Chappell, Central City, Elm Creek, Fremont, two locations in Grand Island, two in York, and two in Kearney. We got involved with the ethanol deal way back when it first started, and we've been a huge proponent of it from day one and we continue to be and will continue to be as we grow. We've already spent about \$3.5 million dollars in just infrastructure to allow blended products at our stores. We have budgeted a million dollars next year to spend for that same initiative. You know, we're not a giant company, so that's a big, huge investment for us, but we're behind it. We support it. And just to give you a frame of reference to take a site from a regular dispenser to a...to build a store with blender sites, it costs you about twice as much money to do it. So it's not a cheap thing to do and we're by no means doing it out of the goodness of our heart. We do it because we want to make money. And there's some pitfalls in our industry and I think, Senator Groene, you asked why don't people just take E-10 out of their tank and put E-15 in? Well, it's not quite as easy as that. All of us buy fuel from the terminals. Terminals are

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owned by a lot of the oil companies. Guess what? Oil companies don't like ethanol. So most of them only supply E-10 and some of those that do supply E-15 are kind of spotty where you can get it. Some scenarios we've seen, actually E-15, they'll charge you more for it. They're not in the business of selling ethanol and they don't really want to sell ethanol. The only really way to counteract that is to do some of the things we've done. That is to put in blender sites. That way you kind of take that out of it. That way we can buy the gasoline off the pipe. We can go to the ethanol plants, buy the ethanol and blend it whatever way we want. And if we can do that, we generally pass down that benefit to our customers. And I think a lot of you asked, you know, what would you do with that nickel? I mean, when it comes to 99 percent of the people when they want to buy some fuel, there's only one thing that matters to them and that's price. And I think we've seen that a nickel a gallon isn't driving them to make that switch because I've got some questions. What would I do with that nickel a gallon? I put it in the fuel. I price E-15 10 cents under. That will push my customers to say, you know what, for 10 cents a gallon I'm going to try this stuff out. That's what I would do. Hopefully, if I did that, I could drive more business into my stores. I could pass on better savings to my customers. We could pump more ethanol in the state of Nebraska and create that whole cycle in this whole state here. You know, it's not quite as simple as all that I guess. But you know, when we look to do all this stuff, it's an expensive deal for us. I mean, right now, you know, E-15 is a very small percentage of the overall sales that we do right now. And we'd like to drive that up. And I guess that's why we're in support of this thing is we really want to see ethanol driven and so we're in major support of it. [LB215]

SENATOR SMITH: Thank you, Mr. Bosselman. Questions? Senator Schumacher. [LB215]

SENATOR SCHUMACHER: Thank you, Chairman Smith. So there's a barrier in that the oil companies will just...won't load anything basically on to a truck to take out to you other than the E-10? [LB215]

CHARLIE BOSSELMAN: No, basically when you go to the terminals it's a pipe and they don't have like a hundred different products. You've got to kind of take what you get. Some terminals don't supply E-15. So then it's a complicated process. I want E-15 and I've got to get clear gasoline, and then I've got to drive that tanker to an ethanol plant and have them splash blend it. So it's...and that costs too much. So the only real way to do this effectively is to have these blender sites. And that's really the crux behind the whole thing. And there's terminals all over the state so we're spread out from, you know, Omaha to Chadron. And so we're buying off of multiple terminals and some will supply E-15, some of them won't. So the way we get by that is we blend it ourselves. [LB215]

SENATOR SCHUMACHER: So basically you get a truckload of gasoline from one place, a truckload of ethanol from another, and then you mix it at your own location. [LB215]

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CHARLIE BOSSELMAN: Yep, we drop it in the ground. In order to do that, you have to have multiple tanks and then the dispensers themselves are about twice as much as a regular dispenser and then you're able to adjust that blend ratio to whatever the customer wants. So we generally go, sometimes four different options for them. [LB215]

SENATOR SCHUMACHER: What's the impediment for an entrepreneurial person to basically say, fine, we'll be the ones who go and get the 100 percent and the ethanol and blend it and so you folks can just go to a number of central terminals in the state and get your E-15 and throw the E-10 out and fill up your pumps and do it real cheap? [LB215]

CHARLIE BOSSELMAN: Yeah, I suppose you could do something like that but, you know, it really comes down for us, I mean, it's a proven model of blender system, I mean it is. And that's the avenue we're going to do going forward. And, you know, I just think with this incentive here it just allows us to offer that product to the consumer at a lower price which will force them...or not force them, but incentivize them to use that product. Once they find out that product is good, then it becomes more acceptable. As it becomes more acceptable, eventually E-10 can be phased out and E-15 becomes the product that people use. [LB215]

SENATOR SCHUMACHER: Thank you. [LB215]

SENATOR SMITH: Senator Groene. [LB215]

SENATOR GROENE: Out of curiosity, I don't want to be here all day as the Chairman I can tell, but so you got a blender pump. So you've taken out one of the middlemen when you go directly to the ethanol plant. What kind of an extra profit and incentive is there between what you would pay, could you have taken out the pipeline or the terminal? Is it a nice little margin that you gain? I mean, I hope, I want you to make money. [LB215]

CHARLIE BOSSELMAN: Yeah, it's better. I mean, it's not...I mean, I'm not retiring to the Bahamas on it or anything, but you know. [LB215]

SENATOR GROENE: Well, you're paying for your three and a half million investment with it. [LB215]

CHARLIE BOSSELMAN: Nah, not quite. Over, I suppose, a long term. [LB215]

SENATOR GROENE: Some of it, some of that three and a half, so it helps there. [LB215]

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CHARLIE BOSSELMAN: And then I guess the real question is how can we accelerate this across the state, get more and more people to do it? I just think it would be advantageous to everybody. [LB215]

SENATOR GROENE: And then just out of curiosity, with all these folks just hitting levers and I know computer blending, what's the margin there...when you say it's 10 percent and you take a test of it or the state comes in and tests, what's acceptable? Is it 8 percent to 12 percent or is...you can't tell me they're dead accurate with these trucks coming in and blending in the terminal. Is there a percentage of margin that you get...the state gives you? [LB215]

CHARLIE BOSSELMAN: You know, that's not my realm of expertise but they do, they sample our locations constantly and you do have to fall within those parameters. And I don't know how big that parameter is, but it's pretty tight as far as I know. [LB215]

SENATOR GROENE: I'd say it would be because it's over millions of gallons you'd tweak it a little bit to the high side and you'd make a little more money. Anyway, thank you. [LB215]

SENATOR SMITH: Senator Friesen. [LB215]

SENATOR FRIESEN: Thank you, Chairman Smith. Thank you for coming, Mr. Bosselman. I know when I was on the Corn Board, Bosselman Enterprises was one of the first ones in the state to really push the ethanol and I really do appreciate that. You know, I remember when you guys were putting in blender pumps and starting to blend your own, so you take any little smaller gas stations out there and, you know, their costs go up considerably if they're going to try and do something like this. You guys have a little bit of scale of economy to do that with, but so to me you're talking a pretty good investment the way you're doing it and it does work. And so when you take the smaller size out there, the two and three store mom and pop operations that are possibly out there, I mean, they're obviously not going to be doing it on your scale and so it is hard to get ahold of E-15 to blend in. So to me it looks to me like the incentive there, you're right, it helps us push that product a little further. So the margins on gas that we always hear that is sold at a station is very tight. Most of the money is made getting them into the station to sell product... [LB215]

CHARLIE BOSSELMAN: Yeah. [LB215]

SENATOR FRIESEN: ...so is that a fairly honest statement when you...? [LB215]

CHARLIE BOSSELMAN: Yes, a very honest statement. [LB215]

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SENATOR FRIESEN: So, you know, when we talk of asking someone to make a pretty good investment, yet even though E-15 is priced cheaper, it takes a long time to recoup that strictly off the gas. And, you know, when you're talking rural stations out in the country, that's almost impossible to recoup off of gasoline sales. [LB215]

CHARLIE BOSSELMAN: I wouldn't say it's impossible. I mean, you've got to look at...I mean, I look at this whole initiative as an investment, not a marketing thing or anything like that. It's an investment in trying to get E-15 to become the standard in Nebraska. So, you know, that's how we look at it when we do it. It's an investment for us long term and it gives us flexibility and in turn it gives our customers flexibility. [LB215]

SENATOR FRIESEN: And I've seen your trucks at the ethanol plants loading up with ethanol, so. [LB215]

CHARLIE BOSSELMAN: Yeah. [LB215]

SENATOR FRIESEN: You know, I understand that philosophy and I do appreciate it, so thank you. [LB215]

CHARLIE BOSSELMAN: You bet. [LB215]

SENATOR SMITH: Additional questions? I see none, thank you, Mr. Bosselman, for your testimony. [LB215]

CHARLIE BOSSELMAN: Thank you. [LB215]

SENATOR SMITH: Next proponent on LB215. Can I see a show of hands, remaining people to testify on this particular bill? All right. Thank you. Please come forward to the room. And for my committee members, I would encourage you maybe to be as direct and brief as possible with the questions so we can get through this testimony. Thank you. [LB215]

TAYLOR NELSON: Chairman Smith, members of the Revenue Committee, my name is Taylor Nelson, spelled T-a-y-l-o-r N-e-l-s-o-n, and I'm here today to testify in support of LB215. As a member of and on behalf of the Nebraska Corn Growers Association, I want to first give you a little background on who I am and how this background allows me to give the unique perspective on LB215. I'm a young and beginning farmer from Jackson, Nebraska, and I'll be transitioning in as the fifth generation to farm the land. I currently grow corn and soybeans with my father and uncle; and as a corn grower, I also invest in the checkoff program that has, through the Nebraska

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Corn Board's approval, invested in infrastructure for the expansion of ethanol fuel blends across the state. And I've been the recipient of that investment and others like it as I co-own Jackson Express, a convenience store on the west side of Jackson, Nebraska. Through this investment, I have upgraded my fuel pumps to dispense higher ethanol blends. LB215 would offer critical support to these past investments and others to come in the future. As a corn grower, I've witnessed increased demand from Nebraska's ethanol industry and in turn stronger local basis and stronger prices for Nebraska corn. Ethanol has also created jobs, tax base, and investment across rural Nebraska. My business in Jackson is just one small example of that. Jackson Express is there largely because of the immense impact that ethanol has had in our small rural community. Ethanol from corn that is grown in and around the Jackson area, produced at Siouxland Ethanol about one mile from our station, and then is direct shipped to us and to be used in vehicles in the region. Locally grown, locally produced, locally sold fuel, fuel that has made it viable for me to return to my family farm as the fifth generation through stronger markets, and fuel that has allowed me to succeed as a young entrepreneur working to start a new business here in Nebraska. LB215 would show the continued support needed to make E-15 viable in more places and make Nebraska more competitive with surrounding state programs. This is critical for retail like myself who needs to be competitive with Iowa and South Dakota markets being so close to them. As a corn grower, I want to be sure to continue to support this valued-added industry through the integration and offering of higher ethanol blends. Demand at my retail location for ethanol blends is driven by many things, but as many other people said before, economics is at the top. Ethanol blends have offered the lowest cost per mile at my station with this cost structure and customers notice. One can see that following EPA's approval of E-15 in 2001 and newer vehicles, adoption and expansion of E-15 has not kept pace. And LB215 will accelerate the integration of E-15 in more stations so that more retailers can offer this value to their customers. In closing, I encourage the Revenue Committee to support LB215 out of committee, and I'd be happy to answer any questions that you may have. [LB215]

SENATOR SMITH: Thank you for your testimony. Questions from the committee? I see none, thank you for your testimony. Next proponent of LB215. Welcome. [LB215]

ROCKY WEBER: (Exhibit 1) Thank you. Chairman Smith and members of the Revenue Committee, my name is Rocky Weber. I'm president and general counsel for the Nebraska Cooperative Council. Our legislative advisory committee reviewed LB215 and asked me to come over today and testify in support of the public policy represented by LB215 supporting renewable fuels and particularly advanced blends in ethanol products and also biodiesel fuels. Many of Nebraska's farmer-owned cooperatives are retailers of automotive fuels including the renewable fuel blends. Many of our farmer-owned cooperatives have contractual grain commitments where we supply ethanol plants across the state of Nebraska with their grain needs. The development of biofuels, including ethanol and biodiesel fuels, have created and strengthened local grain markets and that is particularly important during periods of time right

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now when export markets are flat and there's not a lot of demand in the world for commodities coming from other states. Some of our farmer-owned cooperatives have even partnered with and are involved in ownership of ethanol plants and are participating in that to bring added value benefits to their farmer-owner members. The Council believes that LB215 represents good public policy and allows for an expansion of a renewable fuel that is produced by Nebraska farmers and would help the Nebraska farm economy. Senator Harr's introduction of LB215 also provides me an opportunity to encourage the committee, as it thinks about ethanol incentives and the renewable fuels policy, to consider also biodiesel production and incentives for biodiesel production. Biodiesel is an advanced biofuel made primarily from soybeans which are grown at great amounts in the state of Nebraska. And like corn, studies have shown that biodiesel has created about a \$1 per bushel advantage to the price of soybeans, just like ethanol has to the price of corn. These are economic benefits that inure to the Nebraska farmers, both the soybean farmers and the corn farmers and we believe that good public policy should support not only incentives for production and infrastructure in ethanol, but incentives for production and incentives for biodiesel as well. Public policy in other states such as Iowa have certainly supported biodiesel and ethanol production and infrastructure. If you need any more information about it, those types of incentive policies, our group is happy to come in and meet with you and provide that information. And in closing, we encourage you to advance LB215 out of committee. Thank you. [LB215]

SENATOR SMITH: Thank you, Mr. Weber. Questions from the committee? Seeing none, thank you. Next proponent of LB215. [LB215]

JOHN HANSEN: (Exhibit 2) Mr. Chairman, and members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union. We are in support of this bill and the efforts to try to move the ethanol industry forward and the utilization forward. This is...the ethanol effort is far and away the most effective world economic development strategy the state of Nebraska has ever pursued. And the handout that I've given you I have taken from a variety of sources in order to try to give a...paint up as a statistically accurate kind of overview of what those benefits are. We have come a long way, but we have struggled on E-15 for a variety of reasons, the least of which is not EPA. So as fuels go, this fuel is extremely well- and over-studied. It is...we've done this seven years ago and yet when you look at where we're at today in the number of facilities that offer E-15, my understanding is it's probably less than 30 in the state of Nebraska. That's pitiful. So it strikes me that when you look at what our state can do, we're the number two ethanol producing state in the country, that this program is not the be-all end-all, but it would be helpful. Relative to the fiscal impact, I think that you scale it down, you lock it in, you stairstep it up as dollars are available. But I do think that there is an opportunity to use this bill as the vehicle to take Senator Schumacher's suggestion up, and that is, I don't know why it should be legal in the state of Nebraska. It looks like a restraint of trade to me to have marketing agreements with retailers that

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restrict them from being able to sell a legal, economically beneficial product in our state. That doesn't cost money. That just sets the rules of the road on a more even and level basis. To Senator Groene's point relative to Cenex, Cenex, of course, is a cooperative that was organized by Farmers Union. It is the old Farmers Union Central Exchange and so if you want to pick off a scab that bleeds quickly within Farmers Union, one would be about how it is that they have gone about the business of marketing ethanol fuels. And so, they also have some refining interest in the oil industry and so their farmer members are beating on them as their cooperative saying, why aren't you more aggressively marketing products that we grow and that benefit from it? And so, while we've made some progress and we appreciate that, they're a long ways from being where they ought to be. They ought to be the leader in that market and they are not. And they are still not the leader and they should be. So we are in support of the idea of looking at how it is that we do this. In South Dakota, they took advantage of the stimulus money. They put in a lot more blender pumps than Nebraska. They're well ahead of us. And it's an interesting thing when I talked to them and asked them what have they found from that? The fuel that is the most often used by flex-fuel vehicles, I understand, is E-30. And interestingly enough, the fuel that is most often used in those blender pumps by nonflex-fuel vehicles is also E-30. And so I, myself, am a blender. I pull into the pump with my flex-fuel vehicles and I figure out. It helps me reacquaint myself with math as I figure out how many gallons do I think I have and what blend do I have now and how do I get it up to about where I want it because I do not have E-30 which is, if I had my druthers in terms of trying to get the most bang for my fuel buck, I'd probably be about an E-30 guy. So I'm always trying to figure out where I'm at with my current blend in my tanks and trying to figure out how much E-85 I put in, in order to try to get into that...into that slot because E-30 is not available for the most part. I wish the committee well and thank Senator Harr for bringing this bill forward on behalf of consumers as well as agriculture and anything that we can do to help our economy out at this point in time would be helpful. Thank you. [LB215]

SENATOR SMITH: Thank you, Mr. Hansen. Senator Groene. [LB215]

SENATOR GROENE: One question. Maybe you can answer this. You made a good point. I understand the new President is going to force the EPA to use the new standards, the standards that were the step-up. Wouldn't that just automatically force fuel companies to up the blends? Because right now we're at a 10 percent max and I've heard the numbers that most of the fuel now has 10 percent in it. To reach the new mandates for ethanol, you would almost be forced to go up to 15 percent, wouldn't you, without any incentives? [LB215]

JOHN HANSEN: If the President would do that, EPA would respond, that would be a very good thing. [LB215]

SENATOR GROENE: And we wouldn't need this. [LB215]



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JOHN HANSEN: Well, you might need to revisit the issue of whether or not there's provisions in marketing agreements, but minus that... [LB215]

SENATOR GROENE: Well, if you're forced to use so much, a mandate is a mandate. [LB215]

JOHN HANSEN: Oh, it would be very helpful. [LB215]

SENATOR GROENE: All right. Thank you. [LB215]

JOHN HANSEN: Yep, thank you. [LB215]

SENATOR SMITH: (Exhibit 3) Thank you, Mr. Hansen. The next proponent of LB215. We do have a letter for the record in support of LB215 from Tom Meyer representing Tom's Service, LLC. We now move to opponents, those wishing to testify in opposition to LB215. Welcome. [LB215]

MARK WHITEHEAD: Thank you. Happy to be here. My name is Mark Whitehead. For the record, my name is Mark Whitehead. That's M-a-r-k W-h-i-t-e-h-e-a-d. Senator Smith and members of Revenue Committee, it's a privilege to testify before you today. I am a member of the Nebraska Petroleum Marketers, past chairman, past board member of them, and I'm testifying on their behalf today. As well, I am the chairman of the Petroleum Marketers Association of America which is a federation of 47 state associations very similar to the Nebraska Petroleum Marketers, and I think my testimony today would be consistent with their general positions as well. The testimony that you've seen in favor so far have been by people, of course, closely associated with the ethanol industry and...which is safe to say that their Koolaid is fairly well-mixed with high levels of ethanol. In our particular industry, and it's a matter of personal note, we've been pioneers. Whitehead Oil Company has been pioneers in the ethanol industry as well. My father and Todd Sneller have been good friends, likewise I have as well. We've worked hand in hand to promote different issues within the ethanol industry as such. But having said that, the main thing that we do in the energy industry is meet consumer demand. We do not create demand, we meet demand. And that's a very important distinction to make for a variety of reasons. Whitehead Oil Company has taken advantage of many of the tax advantages associated with the ethanol industry. We've got several locations that sell E-85. We have likewise, there are locations at 84th and Highway 6 does have blenders where we offer a wide range from the E-15, E-30 and E-85. But that's more a matter of consumer choice. A related issue to this might be several years ago, and I don't want to get into a whole lot of details and bore you with this, but our elevation here in the state of Nebraska, we require an 87 octane fuel. Prior to about three years ago, a clear 87 was provided in this market and then we blended ethanol on top of that, which basically made it a 89 which is a little bit of overkill. The blend wall that we've been

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talking about which is part of the Energy Independence Act of the late...around 2007 or so, created the blend wall. Our suppliers represented by API and others have been significantly motivated to meet that. Several years ago they started sending in to the terminals a suboctane fuel, which is basically an 85 octane fuel. So, blended with 10 percent ethanol brings it up to the 87 octane. So it makes a regular unleaded basically an 87 octane fuel. Every major supplier within our market, at least here in Lincoln, required their people to do an oxi-blended or an E-10 product solely as far as meeting their 87 octane, which put us in an interesting predicament with those who did not sell branded fuel. Those who did not sell branded fuel had an opportunity of taking premium unleaded and suboctane, blending it together 50/50 to create a clear 87 octane. That was 30 cents a gallon more expensive than the 10 percent blend with that 87, and the consumer demand for that was significant, which is neither frustrating, or it is what it is from that perspective. And it put us into a very difficult position because we had to respond to that and consequently after about a year to a year and a half, we convinced our refiners to allow us to blend as well into that 87 octane for a clear 87 octane. That wasn't a preference of Phillips 66, that was not a preference of Whitehead Oil Company, that was a preference identified by us in terms of the consumers that were doing what we're doing here right now. In order for us to survive in this industry, we've got to measure consumer demand, provide a product that meets that consumer demand, and if that is E-10, E-15, E-30, E-85, that's what we need to provide, otherwise we're not going to be in existence. So as much as I enjoy ethanol and I use it in my own vehicle and the rest of that, we need to always make sure that we are consumer-focused in our end of the industry. If we are not, then we don't survive. If we don't, somebody else will. And I'd be glad to answer questions. I've got the yellow light here, so I'll...I'd be glad to answer any kind of questions that you might have and on to a variety of different topics as it relates to testimony that already has appeared before you today. [LB215]

SENATOR SMITH: Thank you, Mr. Whitehead. Senator Friesen. [LB215]

SENATOR FRIESEN: Thank you, Chairman Smith. Are there...how many retail stations in Lincoln offer E-15 that you know of? [LB215]

MARK WHITEHEAD: I am not familiar. I know we've only got the one principally because as Mr. Bosselman had indicated, it isn't readily available out of the terminal. They blend to an E-10 out of the terminal and we can splash blend, I guess, up to an E-15, but it's much easier done when you've got a blending facility at the retail location where we've got a tank of E-10, in a tank of pure ethanol and blend to those different levels. If, in fact, we would have stuck with what I described earlier, was what the refiners had, every one of our regular locations have got three gasoline tanks. Our product mix at that point was an E-10, an 89 octane that was an oxi and in a clear 91 octane. As time would have gone on we probably would have had E-15 as our third choice. But again, the consumer preference the way we majored at least was such that we needed to get back to a product mix of an E-10, 87, a clear 87, and a clear 91 is what we typically are.

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The one location that we do have our blender dispensers ironically enough we do not offer a clear 91...or we do not offer a clear 87 because of the way our dispensers are configured, it's just not within that mix that we offer. Five different types of products that are all gasoline related, none of that is a clear 87. We have a clear 91; 87, 10 percent; E-15, 30 and 85 percent at pumps. [LB215]

SENATOR FRIESEN: Do you know of any brand of the stations that would be prohibited from selling E-15? [LB215]

MARK WHITEHEAD: Every branded facility is...and that's a little bit of a loaded question. I think every particular brand that's out there will allow it, but it is not a product of that refiner. So in my particular case, I'm Phillips 66. Phillips will allow us to put E-15 or E-30 and E-85 underneath our canopy, but it is clearly identified as not a Phillips 66 product principally because they don't have any control of the quality of that product coming out of the terminal. They know what the product is coming out of the terminal when they blend it to a 10 percent level, but since they do not...since we are the ones blending it to higher levels beyond that, they cannot really certify that as a Phillips product. Likewise, while E-15 is a little bit of a moving target, it has to really be marketed for all intents and purposes as a flex-fuel because there's...as it was originally ruled out, studies had indicated that it would work in model year vehicles 2001 and later. But there isn't anything necessarily right there in the manual. It's a little bit of a gray area. I would suspect that it is fine for most vehicles but the reality is in order to cover the bases, at least in our particular case or especially when you're operating it through a blender dispenser, it's being dispensed to the same hose as an E-30 and an E-85 as well. So it's the yellow hose. If, in fact we had a dedicated dispenser, it wouldn't technically be a flex-fuel but at the same time it's a little bit of a moving target because of...it's in kind of a no-man's land in terms of preference. If I were to guess, and this is pure speculation, I would say your cars would work just fine on it. It's 10 percent versus 15 percent which doesn't sound like much but at the same time there's another way of looking at that, that's 50 percent more ethanol as well in the product. So I guess you could look at that in two different perspectives. [LB215]

SENATOR FRIESEN: Thank you. [LB215]

MARK WHITEHEAD: Certainly. [LB215]

SENATOR SMITH: I see no further questions, thank you, Mr. Whitehead, for your testimony. Next opponent on LB215. Welcome. [LB215]

JOE KOHOUT: (Exhibits 4, 5) Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Joe Kohout, K-o-h-o-u-t, and I appear before you today as registered

lobbyist for and on behalf of the American Petroleum Institute. The American Petroleum Institute, or API, is the only national trade association that represents all aspects of America's oil and natural gas industry. Our more than 625 corporate members, from the largest major oil company to the smallest of independents, come from all segments of the industry. They are producers, refiners, suppliers, marketers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of the industry. Thank you for the opportunity to testify today in opposition to LB215. The American Petroleum Institute recognizes the value of ethanol as a fuel supplement. However, the average vehicle on the road today is 11.5 years old, and according to the automakers about 85 percent of the existing fleet have neither been certified nor warranted for ethanol blends above 10 volume percent. Further, research has shown that E-15 is incompatible with some vehicles in the legacy vehicle fleet, and the existing retail infrastructure is largely incompatible with E-15. API is not opposed to the sale of ethanol blends when they are stored in the proper infrastructure and sold into vehicles designed and warranted for their use. It is incompatible with, and thus cannot legally be stored in or dispensed from, the vast majority of the existing gasoline retail distribution system, which would require enormous costs to upgrade. API opposes any government activity that prematurely incentivizes the sale of E-15. As a result of this standing position of the American Petroleum Institute, we oppose legislation that incentivizes E-15 through fuel tax benefits based on the principle that E-15 is not ready for the marketplace. Further, API is concerned about the impact of the E-15 on consumer's vehicles when the average age of vehicles indicate that those vehicles were not designed and warranted for its use. Two final concerns that API has with regards to any E-15 legislation that we would ask the committee to note: It is illegal for use in tens of millions of older, i.e. model year 2000 and older automobiles and trucks, as well as off-road vehicles, boats and small-equipment products; and the use of E-15 could result in gasoline refiners and importers, fuel suppliers, distributors, retailers, engine and vehicle manufacturers, and many others facing potential liabilities and litigation. On this final point we would like to make clear that we would also oppose any kind of waiver of liability or other forms of liability protections. For these reasons, API would ask that you not advance LB215 to General File, and I will try to answer any questions that you might have. [LB215]

SENATOR SMITH: Thank you, Mr. Kohout. Senator Friesen. [LB215]

SENATOR FRIESEN: Thank you, Chairman Smith. Have there been any documented cases of engine failure caused by E-15? [LB215]

JOE KOHOUT: I'm not familiar with any, Senator Friesen, nor have I asked for that information but I'm happy to get that information for you. [LB215]

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SENATOR FRIESEN: That would be good. Your sheet here indicates that your vehicle was not designed and warranted to be operated on E-15, so when you talk about warranty, are there any cars left under warranty that were built in 2010? [LB215]

JOE KOHOUT: I would not know if there's a vehicle out there that still would be under warranty, but I think the purpose of this document specifically here is to say, was it designed for the use of it and was it designed and warranted for that purpose. And that's the purpose of the document. [LB215]

SENATOR FRIESEN: Well, it's easy to say a vehicle wasn't designed for it especially when the fuel wasn't there. [LB215]

JOE KOHOUT: Correct. Correct. I would agree with that. [LB215]

SENATOR FRIESEN: If it was...never mind. Thank you. [LB215]

JOE KOHOUT: Sure. [LB215]

SENATOR SMITH: Further questions for Mr. Kohout? I see none, thank you. Next opponent of LB215. Welcome. [LB215]

KATHY SIEFKEN: Chairman Smith and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n. I'm the executive director and registered lobbyist for the Nebraska Grocery Industry Association. We have a couple hundred convenience stores that sell fuel that we also represent. And just to sum up, we're opposed to the bill. All products are market driven. When consumers are ready to purchase, it doesn't make any difference if it's food or if it's fuel. Retail will be ready to supply because that's how we survive. And when the consumers become educated on E-15, they'll demand that product and you will see more people providing that to meet the need. One of the concerns that I have is always our rural members because they most likely do not have tanks that can hold or pump these products. In your smaller farm communities, they don't have the great big tanks. They haven't upgraded in the last ten years. We heard testimony earlier, if you've got a tank that is ten years of age or newer, you can switch over. So what that would mean to some of our smaller communities that haven't upgraded their tanks or their pumps, they would most likely have to spend a lot of money to upgrade so that they could sell E-15, which means that this tax credit wouldn't be available to them. If you have any questions, I'd be happy to try to answer them. [LB215]

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SENATOR SMITH: Thank you, Ms. Siefken. I see no questions from the committee, thank you for your testimony. [LB215]

KATHY SIEFKEN: Thank you. [LB215]

SENATOR SMITH: Next opponent of LB215. Seeing none, do we have anyone wishing to testify in a neutral capacity on LB215? Seeing none, Senator Harr, you're welcome to close on LB215. [LB215]

SENATOR HARR: Thank you, Chairman Smith, members of the Revenue Committee. Not sure what it is about choice in tax credit that brings out the questions in you guys but it sure seems to. (Laughter) There were a lot of very good questions asked today and I think this is part of a bigger conversation that we as a body and we as a committee are going to have is, what do we want to do? Do we want to broaden the tax base, lower rates or do we want to look at those areas where we have a competitive advantage over our neighbors and take advantage of that and incentivize and encourage those industries. You know, Senator Brasch, to answer your question, will this change Chicago Mercantile? Maybe. Not as much as a drought in Indiana, but I'd sure rather do this than have a drought in Indiana. And we have to look at ways of how can we increase the demand and introduce people to E-15 so they can see that it is good so that we can overcome and jump that wall. This is important to build our state. It has a sunset so this is kind of a loss leader of ways, you know, grocery stores use them all the time with coupons, right? This is just on a state level instead of an individual coupon. With that, I know we all probably want a little Kool-Aid in ethanol ourselves, so I will finish and if anyone has any questions anymore, I'm willing to take them. [LB215]

SENATOR SMITH: Thank you, Senator Harr. Remaining questions for Senator Harr? I see none, thank you. [LB215]

SENATOR HARR: Thank you. With that... [LB215]

SENATOR SMITH: Yes, with that that closes our hearing on LB215 and now we open on LB325, which is introduced by Senator Harr and it relates to exemption on certain purchases of energy star qualified products from sales and use taxes. Welcome. [LB215]

SENATOR HARR: Thank you, Chairman Smith and members of the Revenue Committee. My name is Burke Harr, H-a-r-r. I am from Legislative District 8 and I have the distinct privilege of introducing LB325. LB325 creates an annual short sales tax holiday limiting to...limited to the first Friday, Saturday, and Sunday in October. It is also limited to a maximum of \$1,500 of

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energy efficient products. What this does is exempt certain energy qualified products from sales and use taxes. The products that qualify are defined in the statute. It looks...appears under Section 3.2. The promotion of energy efficiency is needed in Nebraska to achieve a sustainable energy policy. Energy star light bulbs use 70 to 90 percent less energy and energy star appliances save hundreds of dollars over their useful life compared to noncertified products. The limits in the bill minimize the amount of sales tax forfeited to encourage a significant resulting energy savings as result of consumers replacing old, inefficient, and outdated appliances with energy star products. The city of Lincoln is in support of this bill. They have determined that the energy savings outweighs the sales tax they will lose. In addition, our power industry is in support of this as they recognize the energy savings that will occur and the benefit to our society as a result of this simple little bill. With that I would entertain any questions you may have. [LB325]

SENATOR SMITH: Questions for Senator Harr? Senator Friesen. [LB325]

SENATOR FRIESEN: Thank you, Chairman Smith. So I take it this is the...an exemption would be on the complete sales tax of 7.5 or whatever percent? [LB325]

SENATOR HARR: Wherever you are, yes. Yes, sales and/or use to pay none where you are in the state. And it is not a tax credit, so rather unique for me. [LB325]

SENATOR FRIESEN: If the city wanted to exempt their 1.5 percent, would that be possible, too, to just leave the 5.5 in place and...? [LB325]

SENATOR HARR: Not for those three days. But again, and in the city of Lincoln, one of the larger cities in the state, the second largest will come up and talk about why they think, and I think most cities would agree. Hopefully someone from the League can talk to you as well about the importance of saving energy in this great state. [LB325]

SENATOR FRIESEN: Thank you. [LB325]

SENATOR SMITH: Well, Senator Harr, you know similar to the last bill, consumers typically will seek out savings and without an incentive. So in this particular case many of the consumers are going to make a purchase decision based on energy savings as well as cost of the appliance. So wouldn't this be basically getting money away where most likely the purchases would be taking place anyway? [LB325]

SENATOR HARR: That's an interesting question. So, you're right, our economy is really based on cheaper, faster, better. Right. And so how do we build things cheaper, faster, and better. An

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energy star isn't always cheaper, at least initially. And so you have to say, what do we do to incentivize individuals and 7.5 percent, I mean up until January 1, how has the business modeled Amazon. Right? We were here last Friday talking about sales tax "forgoance", forbearance, and why you can do a whole business model based on that. And that's what this is, is to incentivize to give people, you know, it's no different than as we were talking about on the last bill with grocery stores. Why do they give coupons? To a certain degree there a loss leader to introduce people to show, hey, energy star products aren't that much different. Matter of fact, they're probably better, but it's always that first time that's scary. And so this gives us a chance to really look at and have the consumer think about. Maybe I should go this way? That's what it is. [LB325]

SENATOR SMITH: Senator Friesen. [LB325]

SENATOR FRIESEN: Thank you, Chairman Smith. I just can't resist. So... [LB325]

SENATOR HARR: Why is there a smirk on your face? [LB325]

SENATOR FRIESEN: The federal government already mandates that all manufacturers have to mandate...or they're built to a certain specification to be energy efficient, is that...? [LB325]

SENATOR HARR: That is correct. [LB325]

SENATOR FRIESEN: So I know in the city of Lincoln when I moved here and had to replace a toilet in the condo and they specified a certain toilet that I had to use to save water. So couldn't the city of Lincoln just mandate that they buy energy star efficient in all appliances, and problem solved? [LB325]

SENATOR HARR: Well, you know, and there are different ways to incentivize, and for choice. [LB325]

SENATOR FRIESEN: Well, that wouldn't be incentivizing, that would be requiring. [LB325]

SENATOR HARR: Well, that would be a requirement, right, and there are different ways of encouraging and making sure that we live to certain standards. And this gives the consumer the ability for choice. I'm not a big fan of government coming in and telling me what I can and can't do. [LB325]



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SENATOR FRIESEN: I wasn't incentivized to put in that certain toilet. [LB325]

SENATOR HARR: Right, and I can tell you're bitter about it, right, and so... (Laughter) [LB325]

SENATOR FRIESEN: A little bit. [LB325]

SENATOR HARR: Well, I mean, you remember it. And there is because of the fact that the city of Lincoln has a limited water supply. As you may recall a couple of summers ago, you couldn't even water. [LB325]

SENATOR FRIESEN: And here we're talking about electricity saving. [LB325]

SENATOR HARR: Yeah. And energy isn't limited in that degree, but there is only a certain amount of energy. Now, some of it's renewable, some of it's from fossil fuel, carbon, and so there's a little bit of difference. But I think we all want to encourage in our own special way energy efficiency and this is your chance to have your special way. [LB325]

SENATOR FRIESEN: Thank you, Senator Harr. [LB325]

SENATOR HARR: Thank you. [LB325]

SENATOR SMITH: Other questions for Senator Harr? I see none. [LB325]

SENATOR HARR: Thank you. [LB325]

SENATOR SMITH: I assume you will remain for closing. [LB325]

SENATOR HARR: As long as it's not as long as the last hearing, yes. (Laughter) [LB325]

SENATOR SMITH: Thank you. We now move to proponents of LB325. Welcome. [LB325]

RICH OTTO: (Exhibits 1-3) Chairman Smith, members of the Revenue Committee, my name is Rich Otto, R-i-c-h O-t-t-o. I'm a registered lobbyist for the Nebraska Retail Federation and I'm testifying in support of LB325 on behalf of Nebraska's dynamic retail industry. First of all, I'd like to thank Senator Harr for introducing the legislation. Several letters of support are being distributed to you, including one from Krotters Home Centers with several locations, including

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O'Neill, Ainsworth, Bassett, Stuart, Atkinson, and Spencer. The energy star sales tax holiday is a consumer-driven energy sustainability policy that financially encourages Nebraskans to choose energy efficient products. This is a straightforward tax incentive for consumers to purchase products that use less energy which will be beneficial in two ways. First, less energy used is a cost savings to your monthly electric and gas bill, and second, it lowers the overall energy consumption for the state of Nebraska. As Senator Harr gave examples of, energy star light bulbs are 70 to 90 percent less, and the other appliances save hundreds of dollars compared to their noncertified products. The sales tax holiday are becoming more popular and effective with consumers specifically as states continue to close the sales tax loophole for on-line only retailers, as the committee is considering in LB44. Because of on-line only loophole, consumers have had the option to avoid sales tax on on-line only purchases for 365 days a year for decades. Also while we do not contest the fiscal note on this bill, I urge the committee to compare the fiscal note to LB44. If a three-day sales tax holiday exemption on this limited supply of products results in a \$1.2 million loss in sales tax revenue, collecting sales tax on on-line only purchases 365 days a year simply would have to be well over one hundred million dollars, not thirty or forty as the fiscal note of LB44 contends. I urge the committee to consider that. Also October is Energy Awareness and Action Month nationally, thus the timing of the sale and the sales tax holiday has additional benefits to promote and educate consumers on the overall value energy star products provide when evaluating these purchases. Five other states, including our neighbor Missouri, have adopted similar energy star sales tax holidays and those have been successful in each of those states. We encourage the Revenue Committee to advance LB325 to enhance Nebraska's energy sustainability going forward. I'm open to any questions you may have. [LB325]

SENATOR SMITH: Thank you, Mr. Otto. Senator Friesen. [LB325]

SENATOR FRIESEN: Thank you, Chairman Smith. Again I look at the companies you're representing and if they are truly concerned about using less energy, wouldn't it be just as simple if they'd offer a 10 percent-off day one day and then they'd get the customers flocking in, but again if I didn't have a need for a refrigerator that day, there would be no savings for me. But I mean, you would incentivize them to come in and they would choose that energy star product and then we would accomplish the same thing. [LB325]

RICH OTTO: Well, our companies do offer sales, whether or not they would choose to offer sales only on those energy star products over others, you know, they could do that, but we want to encourage the products that are more efficient. As you mentioned, a lot of other products are available probably at lesser prices to energy star. Also we've seen where consumers even with the 10 percent sale, they see that somehow when they are given the option of avoiding the tax, that still seems to be more of an incentive. Somehow people like to avoid the tax. We've seen this with other sales tax holidays in Iowa. Consumers from Omaha flock to Council Bluffs. It's only a

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7 percent savings, but yet avoiding the tax still seems more beneficial than a 10 percent savings. [LB325]

SENATOR FRIESEN: I guess where I'm located, we don't see that so I guess I've never seen anybody order a refrigerator on-line, but when you're located too far from that border, I guess we don't have that border bleed, so thank you. [LB325]

SENATOR SMITH: Thank you, Mr. Otto. Further questions? I see none. Thank you. Next proponent of LB325. Welcome. [LB325]

KRISTEN GOTTSCHALK: Thank you, Chairman Smith and members of the Revenue Committee. My name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association, an organization representing 34 rural electric providers serving over more than 230,000 meters, over 80,000 miles of distribution line, and I am here, of course, to testify in support of LB325. We'd like to thank Senator Harr for introducing LB325 and of his understanding of the need to encourage and incentivize the use of energy efficient products. The electric initiative in Nebraska is unique. It's one of the only industry that actively encourages our customers to use less of our product. The incorporation of more energy efficiency and conservation programs allow us to defer the need to build more generation and get the maximum benefit and use out of the resources we currently have on line. As an industry, we build or purchase generation to meet our maximum demand for energy. And this is why we implement various programs to offset the peak demands. For example, Nebraska is a summer peaking state, meaning we use more energy in the summer than any other state. And when energy demand is the highest, we implement load control on irrigation systems. And that's a voluntary process where somebody can defer the use of water and the electricity to pump that water until a time when the demand is lower. On a day to day basis, many utilities will also control, again on a voluntary basis with our customers, hot water heaters and air conditioning loads. Again, people retrain themselves to use the products more during off-peak times than peak times. With the inclusion of more efficient appliances we can further decrease our peak demand which also reduces costs. Many utilities offer rebates and incentives to encourage the purchase of energy efficient appliances and equipment, but not all able to do, though, and that's especially true with some small utilities. Offering a sales tax holiday for the purchase of energy star complied appliances is another tool to encourage smart purchases that will help in managing loads in Nebraska and reducing the needs for new generation. Having a specific weekend or a highlighted time period, the sales tax offering is just one part of that, but the awareness and education that the purchase of energy star compliant appliances is a good thing for their pocketbook and also for the environment is a good thing as well. I realize this is not a good year to reduce the amount of revenues coming in to the state, but this would really have a limited impact, and I guess I would argue that I would expect it would be much less than what the fiscal note indicates. It's for one weekend, restricted items, with a

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very restricted list of items that would apply. I do have one suggestion for a change in the proposal and that would be to include LED light bulbs. Florescent light bulbs are specifically listed, but LED light bulbs also use much less energy and are currently more expensive than other energy choices and the incentive would make them more enticing. So NREA encourages you to look at the long-term benefits associated with this piece of legislation and to advance LB325, and help our Nebraska consumers use less energy and save a little bit of money. I'd be happy to answer any questions you may have. [LB325]

SENATOR SMITH: Thank you, Ms. Gottschalk. So I'm trying to remember my load profiles and you talk about peak clipping and reducing high-use periods. Why is furnaces locate...why is furnace in here since that is a...and we are a summer peaking state? [LB325]

KRISTEN GOTTSCHALK: Why is furnace listed as an item? [LB325]

SENATOR SMITH: Why do we need to focus on providing incentives on furnaces since that's not one of our... [LB325]

KRISTEN GOTTSCHALK: My testimony I wanted to highlight that peak shaving is a good thing and any reduction is going to help peak shave. I guess, I'm not making the correlation necessarily but reducing energy demand at any time has value. I'm simply highlighting the fact that these things also reduce our peak demand times. A furnace would not, but I didn't write the bill. [LB325]

SENATOR SMITH: Okay. So you'd be good with maybe striking a few of these appliances that don't really benefit their introduction being more efficient, does not necessarily help utilities. [LB325]

KRISTEN GOTTSCHALK: It may not have as big an impact on the peak demands. [LB325]

SENATOR SMITH: All right. Okay. Senator Friesen. [LB325]

SENATOR FRIESEN: Thank you, Chairman Smith. I know several of the utility companies that I deal with at least offer incentives at different times for air conditioning systems, LED light bulbs. So why should the average taxpayer, I guess, have to pony up if the benefit goes mostly to the power industry, which we're all part of, you know? Those incentives could be offered through our power industry. [LB325]

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KRISTEN GOTTSCHALK: The benefits go...are directly impacted to the consumers in Nebraska because we're an all consumer-owned utility state. And I think that as much of a monetary incentive as it is in educational opportunity to understand the benefits of energy star compliant products, the tax benefit goes...has a greater impact. It's not just simply, you know, reducing the 7.5 cents, or whatever your local tax rate may be, off the price of the product, but it highlights the benefit of these products where they may not be highlighted as often. [LB325]

SENATOR FRIESEN: You're saying people don't like to pay taxes. Thank you. (Laughter) [LB325]

KRISTEN GOTTSCHALK: Okay, I can say that. [LB325]

SENATOR SMITH: Further questions? I see none, thank you, Ms. Gottschalk. [LB325]

KRISTEN GOTTSCHALK: Thank you. [LB325]

SENATOR SMITH: Next proponent of LB325. Welcome. [LB325]

JOHN LINDSAY: Senator Smith, members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Black Hills Energy. We thank Senator Harr for bringing this bill and we appreciate the Nebraska Retail Federation working with us to make sure that...there were some suggestions regarding natural gas appliances. We want to talk primarily about the...just the effort to incentivize energy efficiency, which is the policy that Black Hills supports. We supported legislation similar to this. I'm sure you recall LB653 from a couple of years ago. We supported that then, we continue to support that policy. We do work with our customers to help achieve energy efficiency and we support this effort to try to assist consumers in their efforts with greater energy efficiency. That having been said, we do recognize that apparently there is a small deficit that the state faces this year and we do understand that when you're looking through the priorities though that energy efficiency be included in what you end up prioritizing. Be happy to answer any questions. [LB325]

SENATOR SMITH: (Exhibit 4) Thank you, Mr. Lindsay. I see no questions, thanks for your testimony. Next proponent of LB325. We do have a letter for the record and we have a Frank Uhlarik of the city of Lincoln sent in a letter in support of LB325. Opponents, those wishing to testify in opposition to LB325. Seeing none, those wishing to testify in a neutral capacity on LB325. Seeing none, Senator Harr, you're welcome to close on LB325. [LB325]

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SENATOR HARR: Thank you, Mr. Chairman and members of the Revenue Committee. I wanted to thank you for your time on this and to put this in proportion a little bit for you. On the...based on the fiscal note the popularity of this program. So the fiscal note out of General Funds is approximately \$1.163 million, or to put it in other terms, there would be \$23 million in sales of energy star projects in those three short days alone. That's a real boon to our economy. It would help create jobs. In addition, taking that same math and saying every citizen used the whole \$1,500 credit, that would help approximately 16,133, or Senator Smith, larger than all the citizens in the city of La Vista. Imagine that if they could all be energy star. What a wonderful life that would be. So this is a wonderful program. There's, obviously, based on a fiscal note, a great amount of interest in this and with that I would ask for your support and entertain any questions you may have. [LB325]

SENATOR SMITH: Senator Groene. [LB325]

SENATOR GROENE: I see the city of Lincoln is interested in this. Have you considered talking to them, and I'm sure Omaha does it too. I just put...did something with my air conditioner in my condo here and they charged me a \$40 fee to come by and look at it. Maybe they could cooperate with you that if somebody buys a high efficiency appliance, that they forgo that fee. [LB325]

SENATOR HARR: That would be a great idea. I agree with that, yeah. It would save us a lot of energy, something like an air conditioner, or 99 percent, you know, furnace efficiency. [LB325]

SENATOR GROENE: Appreciate it. [LB325]

SENATOR SMITH: Would you venture to guess of the \$23 million in sales that would occur on that single tax holiday, which of those sales would have occurred anyway? [LB325]

SENATOR HARR: Oh, I won't answer, you know, what happens when you assume? (Laughter) [LB325]

SENATOR SMITH: Go for it. (Laughter) [LB325]

SENATOR HARR: Well, I will assume you know. [LB325]

SENATOR SMITH: Thank you, Senator Harr. [LB325]

SENATOR HARR: Thank you. [LB325]

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SENATOR SMITH: That closes our hearing on LB325, and now we open on LB601. Senator Erdman is introducing LB601 and it relates to changing the distribution of sales and use tax revenue and providing duties for the Department of Revenue. Welcome, Senator Erdman. [LB325]

SENATOR ERDMAN: (Exhibit 1) Thank you. Thank you, Chairman Smith and members of the prestigious Revenue Committee. It's my first appearance here. It is with honor that I come and present to you LB601. LB601 is a bill that is contingent upon... [LB601]

SENATOR SMITH: Senator Erdman, did you state and spell your name for the record? [LB601]

SENATOR ERDMAN: Steve Erdman, S-t-e-v-e E-r-d-m-a-n. Thank you for calling me on that. Okay. Anyway, LB601 is contingent upon passing of two other bills must pass, either LB544 or LB564, and those bills are the ones that would collect the sales tax on Internet sales. What LB601 intends to do is set the provision as to where that funds that are collected from that sales tax is to go. And so that's my goal. I handed out an amendment and you don't need to wonder is this my first opportunity to write a bill, so sometimes I don't get it right. So the amendment, what it does and I'll bring your attention to that before we go on because I'd like you to clear on what we're trying to do. On page 2 on lines 10 and 11, the Bill Drafters had drafted in there that this would have a sunset of three years. I did not intend for this to have a sunset provision and so that was in the bill. I did not catch it when I first got it, so that amendment strikes that part of the bill starting with this, "this section terminates in three years after the effective date." So that will be stricken and then it was also brought to my attention over on page 3 on the bottom after (e) that I needed to include to (a), (b), and (c), because if I didn't include (c) then the transfers to the Highway Fund would have been restricted. So that's what those two amendments...that's what that does. Going forward with my explanation of what the purpose of this bill is, overtime in traveling around and visiting with people as I was seeking this position, numerous people spoke to me about their property tax being too high. I heard comments from people my age that had grandchildren that said, when my grandchildren graduate from high school, I'm out of here, because when I bought my house my mortgage payment was less than my taxes are today and I can't afford to do this. So we have a property tax problem. So what I intend for this bill to do is when we collect these funds that they will be directly go to the Property Tax Credit Program and give all property tax credit payers in the state of Nebraska some relief. I checked with the Fiscal Office to see what that number would be. It was my impression several years ago that it would be in excess of \$100 million. The fiscal note on LB44 and LB564 said thirty to forty million, and we know that Amazon has stepped up and said they're going to send in their revenue and that's going to be like 11.2, I think the auditor has estimated that to be. I don't know if that's for a full year. So, I think the number is significantly higher than the thirty or forty million and that would be a significant shot in the arm for people paying property tax. Last year the Legislature gave all of agriculture a \$20 million tax relief and so consequently that tax relief fund and tax credit

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program is growing and this would be a great shot in the arm. When they began, they told us of forming it back in 1990, it was the intention of that formula to have one-third of our funding come from schools...for the schools one-third would come from property tax, one-third from income tax, and one-third from sales tax. That has never been the case. The out of balance revenue now is about 48 percent of all property taxes that funds 48 percent of the funding for schools come from property tax. It's estimated that the difference between getting from 48 percent down to 33 percent so that we'd have a three-legged stool that's balanced with 33 percent coming from income tax, 33 from sales, and 33 from property would take about \$1.1 billion. And so this, if we could collect \$100 million and put that into Property Tax Credit Program, it goes a long ways to getting us back to being balanced. So it's my goal to pass this out of the Legislature and have it get through...become a bill so that when that other...one of the other two bills pass, they'll have an opportunity to designate where the funds are going to go. So with that, I believe there are going to be other people to testify in favor of the bill and I'll be around to close. Are there any questions? [LB601]

SENATOR SMITH: Thank you, Senator Erdman. Do we have questions for Senator Erdman? Senator Harr. [LB601]

SENATOR HARR: Thank you. Thank you, Mr. Chairman. Welcome, Senator Erdman, to your Revenue Committee. This is your first time, isn't it? [LB601]

SENATOR ERDMAN: Yes, it is. [LB601]

SENATOR HARR: Well, we look forward to seeing you back a number of times. Thanks for coming. [LB601]

SENATOR ERDMAN: Thank you. [LB601]

SENATOR SMITH: Well, Senator Erdman, since this is your first time to Revenue, I'm not going to ask you about the origins of the three-legged stool and why all three-legs need to be equal and why three legs, but I'll save that up for another time, but I do have a question. Not all businesses nor residents of Nebraska own property. [LB601]

SENATOR ERDMAN: Oh, I understand that. [LB601]

SENATOR SMITH: Nor do they pay property, and we're taking...and what we're looking to do is take the sales taxes that some of these residents and businesses that purchase on Internet and we're going to allocate those out in property taxes. Talk to me a little bit about that and whether



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there's room here to make certain that there is some level of fairness that those folks that don't have property are benefiting from those new sales tax revenues. And then also we heard, I think it was last week, we heard a main street fairness and we heard a lot of businesses talking about that they're being hurt by the lack of taxation on these Internet sales and they're trying to compete. And we're wanting to help main street as well. How can we benefit them? [LB601]

SENATOR ERDMAN: So you're exactly right, Senator Smith. There are people who don't own property and don't pay property tax and there are people in that position that pay sales tax in this state as well and they don't get any benefit from that either. I would assume you're alluding to the fact that there was probably testimony on LB44 and LB564 about protecting business. [LB601]

SENATOR SMITH: Yes. [LB601]

SENATOR ERDMAN: I understand that as well. We have a situation in Nebraska with the property tax being out of line and I'm willing to go back and talk about that three-legged stool if you would like, but as we go forward we've got to figure out a way to alleviate property tax. I visited with...and I don't want to try to outdo, as Senator McCollister this morning, he said he knocked on 11,000 doors. I don't know how many I did, but I'll tell you this. Out of the thousands that I did knock on, not one person mentioned income tax relief, not one person. But 90 percent of those that had a comment about taxes, it was property tax. And so that is my impression of this, the property tax thing is broken and we need to fix it. And so, I guess as far as those people who pay taxes, sales tax, and they don't get an advantage because they don't own property, they can buy property at anytime but this property tax thing is broken, and that's where I'm focusing my attention. [LB601]

SENATOR SMITH: Okay. Further questions for Senator Erdman. Senator Friesen. [LB601]

SENATOR FRIESEN: Thank you, Chairman Smith. You know when you start talking about property taxes, you get my attention. So a question I guess is going back to Senator Smith's question. If you reside in the state of Nebraska, how is it that you could live here and not in some way, whether directly or indirectly, be paying property taxes? [LB601]

SENATOR ERDMAN: Well, indirectly you're paying them somehow. [LB601]

SENATOR FRIESEN: Through apartments. [LB601]

SENATOR ERDMAN: Well, apartment rent or whatever because the apartment owner is going to raise his rent to cover the taxes. I understand that. [LB601]

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SENATOR FRIESEN: Thank you. [LB601]

SENATOR SMITH: Further questions? Senator Groene. [LB601]

SENATOR GROENE: There's a way to do it. I've got some folks I know who do it. You get an RV and you license it in Oregon and you come back for six months a year and you visit the grandkids. But anyway, won't this just be a swap of taxation? I mean if we give...dedicate this money here, wouldn't this body then say, well, we've got this \$40 million coming in from sales tax so we can take \$40 million less out of the General Fund to give property tax relief? [LB601]

SENATOR ERDMAN: Yeah, and if we put this \$40 million in, it will alleviate \$40 million somewhere else that they can use for something different. [LB601]

SENATOR GROENE: Yeah. [LB601]

SENATOR ERDMAN: I would assume that's up to the Legislature. You know, when I've had the conversation with most people about property tax relief is basically when we understand what funds schools and those other things that we pay for, it's basically coming from property taxes. There's an imbalance there. And we're not talking about new revenue. Okay. My intention is to cut spending the equal amount to what this is so that we don't...I want different revenue, not more revenue. I'm not talking about a tax increase. [LB601]

SENATOR GROENE: I'm just...if we're putting \$440 million in of General Fund money and this \$40 million is dedicated to it, then we'll just put \$400 million of General Fund money and \$40 million of sales tax shift, I mean, because there's no statute that says we have to set dollar amounts. [LB601]

SENATOR ERDMAN: Yeah. Well, this would protect us. This bill would say that that money... [LB601]

SENATOR GROENE: And it said it would be \$40 million they couldn't take when they take the other \$400 million. [LB601]

SENATOR ERDMAN: Yeah. They can do whatever they want. The other it's not guaranteed. [LB601]

SENATOR GROENE: This is. [LB601]

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SENATOR ERDMAN: This is. That's the difference. [LB601]

SENATOR SMITH: Senator Harr. [LB601]

SENATOR HARR: Thank you. And maybe you can answer me this question because much to my chagrin, I don't think my two-year-old, directly or indirectly, pays property taxes. Do you think he does? [LB601]

SENATOR ERDMAN: Your two-year-old? [LB601]

SENATOR HARR: Yeah. [LB601]

SENATOR ERDMAN: His dad does. [LB601]

SENATOR HARR: What's that? His dad does, but he doesn't. [LB601]

SENATOR ERDMAN: No. [LB601]

SENATOR HARR: So he lives in Nebraska without paying property tax. [LB601]

SENATOR ERDMAN: That's right. (Laughter) [LB601]

SENATOR HARR: There's a way. Okay. Unfortunately, I think you're right. Thank you. [LB601]

SENATOR SMITH: I see no further questions. Will you remain for closing? [LB601]

SENATOR ERDMAN: I will. [LB601]

SENATOR SMITH: All right. Thank you. Let's move to proponents of LB601, proponents. Welcome. [LB601]

DENNIS FUJAN: Thank you. Thank you, Chairman Smith. I wasn't planning on being the first one up here. I'm not sure I'm the most eloquent spokesman for this, but my name is Dennis Fujan, D-e-n-n-i-s F-u-j-a-n. I'm here on behalf of the Nebraska Farm Bureau and the Nebraska Soybean Growers Association to testify in support of Senator Erdman's LB601, which would send revenue from a tax on remote sellers to the Property Tax Credit Fund. Last week

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agricultural stakeholders testified in support of taxing on-line remote sellers as a means of providing relief for property taxpayers in fairness for our main street businesses. Currently, Nebraska law provides that if the federal government acts to allow states to collect sales tax from on-line retailers, the revenue generated would go to the Property Tax Credit Fund. Nebraska Farm Bureau and the Nebraska Soybean Growers believe it only makes sense and is consistent with the intent of the Legislature to send revenue generated through the state action like legislation or voluntary action like the Amazon company to the Property Tax Credit Fund. In Nebraska from 2007 to 2016 property taxes levied grew at nearly twice the rate as sales and income taxes. Property taxes have no doubt taken on a greater role in supporting state and local government services. We have a billion dollar tax imbalance in the state which property tax is paying close to 50 percent of our priorities, and Senator Erdman said it was 48 percent, so I'm not going to argue that. The Farm Bureau and Soybean Growers believe broadening the sales tax base is a reasonable and fair way to reduce the burden on property taxpayers. While the revenue generated from taxing remote sellers will not correct this completely, we believe the \$30 million to \$40 million of projected revenue is a good start. We ask for your support on LB601 and look forward to working with this committee and the rest of the Legislature to find a workable solution. And I'd also like to thank Senator Erdman for bringing this bill forward. Thank you. I'm happy to answer any questions I can help with. [LB601]

SENATOR SMITH: Thank you, Mr. Fujan. Do we have questions from the committee? I see none, thank you for your testimony. Next proponent on LB601. Welcome. [LB601]

JOHN HANSEN: Mr. Chairman, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union. As you are aware, we did testify in favor of the two bills that have been mentioned that dealt with Internet sales tax issues and so as we look at the revenue opportunity there, thirty to forty million dollars would be helpful to help fund the Property Tax Credit Cash Fund and it is not...you know, it's the old saw about how you eat an elephant, well, one bite at a time. We have developed a tax system in our state which is out of balance and we've done it incrementally over a number of years. So we would like to see bigger changes faster, but in this fiscal environment we are all for looking for whatever is possible in order to try to help make incremental change to the good. And I...we are facing in agriculture a major financial crisis. This is the most broad-based and deep financial crisis that our state's number one industry has faced since the mid-1980s. That's what the data says; that's what experience says; that's what my phone calls say. And we're not talking just beginning farmers, we're talking about folks in the prime of their farming careers in their 50s and 60s that are calling me up and telling me that they're filing bankruptcy. When I talk to bankers, depending on which part of the state they're in, they're 10, 20, 30, 40, 50, in excess of 50 percent of the ag loans in their bank they feel will not be renewed because they did not cash flow. And so based on the current banking laws, you are either current or you are gone. The fact that you have equity means good luck, but you're not going to get your

loan renewed until you're current. So at the point at which you're liquidating assets and liquidating equity, you're going to be facing capital gains and income tax liabilities. And so if you look at the major iron equipment, wholesalers who do consignments, the amount of iron on all of those is up dramatically. Anybody who has got any loose equipment that they can possibly get along without, is consigned. We are facing a very substantial crisis and as you look at what it is that the state of Nebraska can do to appropriately respond to the crisis that we're facing, property tax relief is at the top of my list. And property taxes when you're losing money at the rate that we're losing money is a very substantial item. And so it continues to be our organizational priority and our focus and so we are in support of LB601 and we thank Senator Erdman for bringing it forward and we think it's a constructive step that needs to be seriously considered. And with that, I would be more than glad to answer any questions if you have any at this late hour on a Friday afternoon. [LB601]

SENATOR SMITH: Thank you for your testimony. Senator Harr. [LB601]

SENATOR HARR: Thank you, Chairman Smith. Thank you, Mr. Hansen. For the last two hearings I didn't get to ask questions so I have to make up for lost time. (Laughter) And I understand the hour is getting late and it's Friday and we all want to go home, but we're going to have an exciting week next week and I think this bill is a good setup for what we're going to talk about next week. And some of these questions I'm asking... I mean, these questions I'm asking I don't know the answers to, but it's also somewhat of a setup so that people who come to testify next week will know what I'm looking for, or what I think we need to do when it comes to property tax relief. So I guess my first question is, as it applies to agriculture, what percentage of the net operating cost probably goes to property tax? [LB601]

JOHN HANSEN: Oh, I would have to do some digging on that, but at our Farmers Union Board meeting that we had last Wednesday, several of our board members said that the amount of property taxes that they're paying in one case on pastureland and another one on dryland farm ground, now the tax bill exceeds what they paid for rent less than ten years ago. [LB601]

SENATOR HARR: Okay. [LB601]

JOHN HANSEN: So it's climbing as a percentage. [LB601]

SENATOR HARR: Right. And we're getting more efficient in our property too and we're getting more product out of the land and that's a good thing. By the way, I'm all for that. And then the next question, what percentage of net operating expenses probably goes to income tax and what percentage of the net operating expense goes to sales tax? [LB601]

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JOHN HANSEN: Again, I would have to do some digging. I don't have those...I don't have those numbers. Those are good questions. [LB601]

SENATOR HARR: And then finally, I am trying to figure out because I think what we have for a while at least, we were at a great place in that the value of property kept rising and the commodity prices were high. And they were somewhat wealth, because of high commodities of the property was consistent with wealth, that you had liquidity. Now, I think there is an imbalance. And I'm trying to figure out is, does property taxes, do they properly value an individual's wealth, and if they do, and I don't know if they do and that's one of the questions, right, because TEEOSA looks at your ability to pay your resources and is that resource is that a proper measurement using property taxes and is the valuation we use proper or is the issue that, for instance myself, all of my money is income and so it's very liquid. And so it's more readily available for me to pay that off, whereas property is not nearly as liquid. Even though you may have more wealth than I do, it's easier for me to make that payment. Is our problem that one is liquid and one is not, or is the problem, we don't properly determine the value of property as it applies to taxation? If that makes sense, and I'm not sure it does, it does in my head, but I'm not sure it does when it comes out. (Laugh) [LB601]

JOHN HANSEN: Well, they...there are in our views some inequities between how it is that we measure wealth and we measure tangible, but not intangible wealth and so if we're looking at our friend Warren Buffett and myself, I'm substantially richer than he is because I own more farmland in Madison County. [LB601]

SENATOR HARR: With more tax liability, right. Yeah. [LB601]

JOHN HANSEN: But if he were my neighbor and didn't own any farmland, his enormous financial resources would not be a part of the formula calculation. So we build into the formula some very substantial inequities in our view and you know, in all of these things going back to the three-legged stool, it's a matter of balance in proportionality. And, you know, it's a...the strength of property as a tax as a characteristic is that it's...it is solid and it is reliable and it does not fluctuate up and down. That is also as all of the tax studies that we have done in our state would also indicate is one of its weaknesses is that it doesn't reflect the earning capacity of folks as they're going up and down in the actual net income pool. And so you can...you know, we have folks who as the old saw goes, live poor and die rich. And so you own a lot of property but you need the property to be in your business and your business may or may not be making any money. And so over the long term in the case of ag, it is a high risk, capital intensive, low rate of return business. And so we are...we're in a situation where we own a lot of that property. Whether it makes any money or not is a completely separate issue and so we go up and down in the income pool, but our tax load continues to go up. And so we're now at the point where we're

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out of balance. And in terms of ag as a whole, we are a boom and bust industry and we have a few short booms and we have a lot of long periods of very tough struggles. And the struggles we're going through right now is year three. So I'll provide next week more detailed data about just how much money we're losing per acre in different kinds of commodities. And I'll...I appreciate your questions and it gives me something to do over the weekend. [LB601]

SENATOR HARR: Okay. Thank you. [LB601]

SENATOR SMITH: Senator Groene. [LB601]

SENATOR GROENE: Clarify. You made a good point there, John. So if Warren Buffett lived right next to you and was making \$10 million a year, that local school district on your farm ground you're supporting that school district tenfold if he moved that house that he claims he lives in since he first, was 1950s, was right next to you, you are supporting that school district tenfold over him who makes ten million a year. Is that correct? [LB601]

JOHN HANSEN: Well, that's a...yes. I mean, we're...real estate and tangible property pays for schools. And so, you know, it's one thing when the total bill for K-12 education is a much smaller bill, but when you get the size of the bill that we have now, it's an altogether different matter. And so, you know, the inequity that our guys look at is that we did the math Wednesday, and if my math is right, we have 69 percent of the schools in the state of Nebraska do not get income and sales tax to operate their K-12 school and it is all property. [LB601]

SENATOR GROENE: Well, also when you compare farm with land value today, the farmer isn't the same as Senator Harr's liquid wealth. The comparison would be more likely that farmer's land is comparable to his J.D. degree, his law degree. It's the asset that creates his wealth. It is not his wealth because he don't plan on selling that in his lifetime any more than Senator Harr plans on selling his law degree. Is that not correct? [LB601]

JOHN HANSEN: He tends to rent or lease his law degree. (Laughter) [LB601]

SENATOR GROENE: Thank you. [LB601]

JOHN HANSEN: Thank you. [LB601]

SENATOR SMITH: Further questions from the committee? I see none, thank you, Mr. Hansen. Next proponent of LB601. Welcome. [LB601]

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LAURA FIELD: Thank you, Senator Smith and members of the committee. My name is Laura Field, L-a-u-r-a F-i-e-l-d. I appear before you today on behalf of Nebraska Cattlemen to testify in support of LB601. Many of my comments are the same as the previous witnesses. You've seen Nebraska Cattlemen before your committee on a number of bills dealing with property tax reform and relief that continues to be a priority. We'll be before you a number of times this year as well. Last week, we also weighed in supporting LB44 and LB564 that would require collection of sales tax from remote sellers. Nebraska Cattlemen supports the revenue from these going to the Property Tax Credit Fund. We've long supported that as an appropriate method of property tax relief. It provides immediate tax relief for all real property tax owners in Nebraska. We are committed to working with the committee and the Legislature this session and look forward to visiting about this topic more. Thank you. [LB601]

SENATOR SMITH: Thank you, Ms. Field. Questions for Ms. Field? I see none, thank you. [LB601]

LAURA FIELD: Thank you. [LB601]

SENATOR SMITH: (Exhibit 2) Next proponent of LB601. We do have a letter for the record. Trent Fellers representing Reform for Nebraska's Future sent a letter in support. We now go to opponents of LB601, those wishing to testify in opposition to LB601. Welcome. [LB601]

RON SEDLACEK: Good afternoon, Chairman Smith and members of the Revenue Committee. For the record my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce and I've also been asked to enter testimony on behalf of the Greater Omaha Chamber of Commerce as well, and signed in as such. My comments will be fairly brief. We, first of all, thank Senator Erdman for bringing this bill to the committee for opening a discussion on what could happen with additional dollars that could be generated through the extension of the sales tax to remote sellers in Nebraska and we were here last week supporting both bills as others had previously testified to. We would agree also with Senator Erdman in regard to the fiscal estimate on the bill. We've always felt it would be higher. Usually, we're arguing the other way around on fiscal notes, but in this case we think that it probably could be...there could be greater impact. However, we'd also agree with what Senator Groene had mentioned earlier and that deals with the fungibility of money in the budget. And that's why I've been asked to come before the committee. Our tax counsel did review this legislation and took interest in it, in talking a great deal about whether it would be good policy or not and in the end they asked me to come forward here to express concerns to the committee. And their concerns are that this is new money we don't know how much is going to be generated at this time, talking about a future where we're not even certain whether this bill, if passed, will pass constitutional muster. We believe it could, but that's still up in the air. And we feel that...and



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many of our members expressed the concern that to tie the money into a particular fund at this time wouldn't be appropriate, but rather senators should reflect on it once they find out more information and use the General...and have it brought to the General Fund and do specific appropriation if that's the case. If it's for state aid to schools or if you want to enhance the Property Tax Relief Credit Fund, if you want to spend it on other programs, we maybe still have budget issues. And so they would suggest and would support a wait and see approach on this, and to trust in our elective representatives and their determination at that particular time. The bill as it's written also does not...when it earmarks the money to the Property Tax Credit Relief Fund we're doing something statutory here in the earmarking, whereas in previous sessions we've done the funding of that particular fund through appropriation. And so there's no guarantee that there's going to be an increase in the Property Tax Relief Fund by this legislation. In fact, appropriations could decrease by the same amount and you end up with the same amount in the General Fund. So from that angle, we don't really see the bill as arriving at much of a point to this. So with that, I will conclude our testimony. [LB601]

SENATOR SMITH: Thank you, Mr. Sedlacek. Questions for Mr. Sedlacek? So normally the Chamber would not be opposed to controlling spending by government and so this bill is an attempt to earmark and control the spending in the growth of government. But it sounds like your opposition is primarily that you believe that this is an appropriations issue? [LB601]

RON SEDLACEK: Well, the Property Tax Credit Fund has been an appropriation issue historically. And whether successful or not, we can argue about that but the...but has not earmarked state collected taxes to...in a particular percentage to definitely go to that fund. [LB601]

SENATOR SMITH: Okay. All right. Senator Friesen. [LB601]

SENATOR FRIESEN: Thank you, Chairman Smith. So in the past, I mean, LB84, I think it was, it dedicated a portion of the sales tax to roads. Would you say that this is similar? [LB601]

RON SEDLACEK: This would be similar. [LB601]

SENATOR FRIESEN: Okay. Thank you. [LB601]

RON SEDLACEK: Although this would...all this new money would not...none of it would go to roads the way it's written or the way it would be amended as I understand it. Right now as it's written, that money collected there would be a percentage that would go to the roads fund, Highway Trust Fund, in LB84, but what I understood at least in the opening statement was that

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was a mistake and there was going to be an amendment offered. If I understood that correctly so that it would not go to those two funds. Is that right or wrong? [LB601]

SENATOR GROENE: It was sunset. [LB601]

RON SEDLACEK: Well, the sunset was a different issue too. [LB601]

SENATOR SMITH: And perhaps Senator Erdman can clarify that when he comes back out. All right. Thank you. Thank you for your testimony. Others testifying in opposition to LB601. Welcome. [LB601]

RENEE FRY: (Exhibit 3) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. We are here in reluctant opposition to LB601. In fact, in past years we have supported similar legislation, but with a budget shortfall of \$1.2 billion through FY21, that could grow based on November and December receipts, we cannot in good conscience support legislation that would divert additional dollars from the General Fund. That said, our research shows that we rely much more heavily on property taxes to fund state and local government services with property taxes making up 36 percent of all state and local tax revenue collected in Nebraska. This is in comparison to 31 percent from sales tax, 26 percent from income tax, and 7 percent from other taxes. So while we greatly appreciate the intent of this legislation, we would instead recommend more systemic property tax reform, such as would be undertaken with a school finance review commission as proposed in LB484. Every major study of Nebraska taxes since 1962 has noted our state's high reliance on property taxes to fund schools. That reliance is largely a result of historically low state support for our schools. Presently, about 49 percent of Nebraska K-12 education comes from property taxes, compared to a national average of 29 percent. In FY '12, we hit a historic low in state support for K-12 education as a share of the economy since the implementation of TEEOSA. While that funding has bounced back slightly, it is well below the historic average, and the preliminary budget would again take a downward turn and put the state support at a historic low in FY '19. The number one property tax recommendation of the Tax Modernization Committee of this Legislature was to increase the state aid commitment to schools to offset property tax use and reduce property taxes as a share of total state and local taxes. At a time when school funding for K-12 education is near a historic low, we think focusing more on systemic reform should be a priority. We would also hope that you would have a robust conversation about the \$180.9 million in sales tax exemptions and \$268 million in income tax cuts passed since 2006. I want to evaluate if these continue to be priorities given the current reality. I would also comment, Senator Smith, you made a comment about fairness in terms of using Internet sales taxes in exchange for property taxes. I would suggest that in terms of fairness, sales and property taxes are both regressive and fall harder on low and

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middle income families, whereas as income taxes fall...wealthier families pay a greater percentage. So I know that there was some conversation about Internet sales tax last week and going to the General Fund or being used for income tax cuts and I would suggest that using Internet sales tax for income tax cuts would, in fact, negatively impact low and middle income families. And with that, I'd be happy to answer any questions and thank you for your time. [LB601]

SENATOR SMITH: Have questions for Ms. Fry? So, Ms. Fry, walk me through that a little bit more, would you please. So we have four brackets for income tax and the highest bracket has individuals beginning at \$29,000 and families beginning at \$59,000, but if you go much further down in those brackets, if we were to provide relief in those lower brackets, why wouldn't that not help lower income and middle class? [LB601]

RENEE FRY: Versus the top rate? [LB601]

SENATOR SMITH: Yes. [LB601]

RENEE FRY: If you reduce lower brackets or lower rates, it would help lower and middle income families to the extent that they have taxable income. It would also help higher income families. When you cut the top rate, the majority of that tax cut will go to the wealthiest families. If you reduce lower brackets, the rates on lower brackets, that will help lower and middle income families more than the top rate cut. [LB601]

SENATOR SMITH: That's correct. So, and also we have small businesses that pay through the individual brackets and you're aware of that. And so if our small businesses create two out of every three jobs in the state, and they provide incomes for those middle and low class, or low-income individuals, why would you not want to create more jobs in the state and help people become more fully employed? [LB601]

RENEE FRY: So a couple of comments. So if you were to cut the top rate for income taxes, actually a minority of businesses would be eligible. If you look at the average in taxable income for small businesses in Nebraska are for businesses in Nebraska. It's actually a very small percent of businesses that actually have any income that's taxed at the top rate. The average taxable income for a small business in Nebraska is the...is about...I can't remember, 26,000 or 28,000. So actually not very many small businesses benefit from a top rate cut. The other piece of it is when you look at the amount of taxes, tax benefit that a small business could get, it's pretty nominal, not enough to actually hire a new person. So, I don't think you're going to see...in fact, if you look at the economic research when you cut the top income tax rate, it doesn't actually generate

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economic growth, doesn't result in more hiring. That's certainly what we saw in Kansas and Oklahoma and other places. [LB601]

SENATOR SMITH: Senator Lindstrom. [LB601]

SENATOR LINDSTROM: Just a quick question for you. What would be, in your idea of what a low-income person would be, as a single filer, what's that number? [LB601]

RENEE FRY: Well, middle-income family, the average, the median income in Nebraska is \$54,000. [LB601]

SENATOR LINDSTROM: For a family. [LB601]

RENEE FRY: For a family. [LB601]

SENATOR LINDSTROM: What about a single filer, where would that number be for you? [LB601]

RENEE FRY: I don't have in front of me the...we actually, we know where that breakdown is in terms...I just don't remember it off the top of my head, but I can certainly get back to... [LB601]

SENATOR LINDSTROM: I mean is it around \$29,000? [LB601]

RENEE FRY: For? [LB601]

SENATOR LINDSTROM: For a middle income individual that's filing...a single filer? [LB601]

RENEE FRY: A single filer, it's going to be a little bit lower. And I'm happy to send that to the committee. We actually do have the breakdown in terms of... [LB601]

SENATOR LINDSTROM: I was just curious where that number, if you can define it as to what classifies someone as low income, middle income. [LB601]

RENEE FRY: Sure. I'm happy to follow up and I'm happy to talk about it next week too. We'll be back and I'll have that data in front of me. I just don't have it with me right now. [LB601]

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SENATOR LINDSTROM: I'm just curious. Twenty-nine thousand doesn't seem like a high income person to me, but. [LB601]

RENEE FRY: No, and I mean I also think that we're mixing too. There's a lot of...at least when we're talking about income tax cuts, there's taxable income versus, you know, their net. [LB601]

SENATOR LINDSTROM: Sure. I appreciate it. [LB601]

SENATOR SMITH: Further questions for Ms. Fry? I see none, thank you. [LB601]

RENEE FRY: Thanks. [LB601]

SENATOR SMITH: Next opponent of LB601. Seeing no other opponents, those wishing to testify in a neutral capacity on LB601. Seeing none, Senator Erdman, you're invited to close on LB601. Welcome back. [LB601]

SENATOR ERDMAN: Thank you. I'll just...let me close up by saying these things. When we put money in the Property Tax Credit Program, everybody who owns property in the state of Nebraska receives benefit. It's not specifically for agriculture. Senator Harr, you'll get some relief. So it helps everybody. It doesn't just help those people in agriculture. Okay. And so consequently, I think it's the best use of this funds. I want to go back a little bit in history. In 2003, I believe it was, the state had a little shortfall back then and it was about \$750 million. Back then the budget was 2.6 billion. That's 30 percent. My son was here at that time and they worked through that shortfall and they got it...they fixed it. They didn't raise tax. They got it fixed. Today we have estimated a \$900 million shortfall. Our budget is more than two times that big. It's 5.6 billion, which is about 18 percent. So the point I'm going to make is we can fix the problems we have in the shortfall the way we have in the past. That's been able to do things that are necessary to get it fixed. I don't believe that this \$40 million should go in the General Fund. I believe this should be earmarked for property tax relief and that's exactly where it should go. And everyone in this state who owns property, whether it's a business or a house or a farm, whatever they own are going to get relief. I will try to attempt to answer Senator Harr's question about how much of their net income is going to property tax. Senator Harr, the answer is more than their net income. I seen a farmer, a rancher brought in a receipt last week and he showed me his receipt from selling his cattle, his calves, and then he showed me his property tax bill. The amount of property tax on his ranch exceeded the total amount he received for his calves. So it is a significant number. It is more than their net has been. And in my area, those farmers that have irrigated ground, before they start planting anything, they're paying \$90 an acre in water rights and property tax before they even go out to the field. So there is a problem in agriculture. Agriculture's value has gone up 180 percent in the last ten years, residential has gone up about

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30 percent, and commercial has gone up about 34 percent. Does that seem a little out of balance to you? It does to me. So I think this makes perfect sense. We have before contributed specific money from sales tax to funds like Senator Friesen had commented about the Highway Fund. So it's been done before. I wasn't naive enough to think no one would be concerned about the \$40 million, but I do ask you to pass this out into the General...on to General File so that we can make some commonsense decisions for property taxpayers. Thank you and I hope you will pass this bill. [LB601]

SENATOR SMITH: Thank you, Senator Erdman. Remaining questions for Senator Erdman? I see none, thank you, Senator Erdman. [LB601]

SENATOR ERDMAN: Thank you for your time. [LB601]

SENATOR SMITH: That concludes our hearing on LB601 and that concludes our hearings for the day. Have a good weekend. [LB601]