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Agriculture Committee
March 01, 2011

[LB200 LB459 LB698]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, March 1, 2011, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB459, LB698, and LB200. Senators present: Tom Carlson, Chairperson; Norm Wallman, Vice Chairperson; Dave Bloomfield; Lydia Brasch; Burke Harr; Russ Karpisek; Tyson Larson; and Steve Lathrop. Senators absent: None.

SENATOR CARLSON: Well, welcome to the March 1 Agriculture Committee meeting. I'm Tom Carlson, Chair of the Ag Committee. To my right is our research analyst, Rick Leonard, and to my left is our clerk, Barb DeRiese. And our page is Kate DeLashmutt from Burwell, so she'll help you out if you need some help on something. To my right over here, Senators: Senator Norm Wallman from Cortland; Senator Lydia Brasch from Bancroft; and Senator Dave Bloomfield from Hoskins. And we'll have Senator Larson and Senator Karpisek and Senator Lathrop joining us before too long. If you're going to testify today, please pick up a green sheet up there and have that filled out before you come forward and then hand that in. If you have material you want to hand out to the committee, give that to Kate, our page, and she will pass that around. If you do need some copies on something, you can tell her on that and she will get copies for you. When you come up to testify, please give your name and spell it for the record. And if you don't do that, I'll interrupt you and make you smell...not smell your name, but spell your name. (Laughter) So please do that. We, I don't think are going to hold to the clock today. We'll see how it goes but hopefully your testimonies are five minutes or less, and then the committee will be open to ask you some questions. If you don't want to testify but you'd like your name entered into the official record, there's a white sheet there on the corner of the table as you came in that you could sign and it tells what your position is on one of these bills. You can fill that out. If you haven't done so, please turn your cell phones off or put them on vibrate so that they don't disrupt our hearing. Any questions on how we're going to proceed before we get started today? Oh, Senator Burke Harr will be here as well, so I failed to mention him. On the committee, you have copies of any letters that have been handed in. They're already in your book so you can refer to those, if necessary. Then this is Senator Larson from O'Neill just joining us, so we officially have a quorum now. With that, we'll open the hearing on LB459. Senator Schilz, you're recognized to open.

SENATOR SCHILZ: (Exhibit 1) Thank you, Senator Carlson and members of the Agriculture Committee. For the record my name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I'm before you today to introduce LB459. LB459 is a bill that I introduced to solidify how we treat and...the ownership of animals. It's intended to prevent a dramatic and negative change in the legal standing of animals. I'm handing out an amendment right now that I've provided which clears up language but it does not change the intent or outcome, just makes the bill more legible and more readable and more understandable. Recently, a number of organizations have begun campaigning to change the legal

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status of animals by replacing the term "pet owner" with the term "guardian." The term "owner" places responsibility on people to care for their animals while the term "guardian" changes this relationship and could potentially shift decision-making rights and responsibilities to courts and other third parties who might be able to claim an interest on the animal's behalf. Cities in Colorado, Missouri, Indiana, New Jersey, Wisconsin, Massachusetts, Arkansas, and California have all adopted ordinances or codes allowing for animal guardianship rather than ownership. Both the American Legislative Exchange Council and the Council of State Governments have adopted resolutions stating that animal guardianship statutes would undermine the protective care that owners could provide for their animals and the freedom of choice owners now are free to exercise. Guardianship statutes or ordinances may permit challenging in a court of law the course of treatment an animal's owner and veterinarian decide on, or permit animal owners and veterinarians to be sued for providing what other individuals may regard as inadequate care. The Nebraska Legislature and interested parties such as Animal Control have worked hard to ensure proper safeguards are in place for the proper treatment of animals and the rights of the owners of those animals. This legislation is in no way intended to affect at-large or dangerous dog ordinances. Allowing Nebraska cities, villages, or other political subdivisions to change the balance in this area by creating the ordinances providing for animal guardianship would undermine the work that has already been done in the animal welfare arena. And with that, I would be happy to answer any questions. [LB459]

SENATOR CARLSON: Okay. Thank you, Senator Schilz. I'm going to do something a little bit out of the ordinary because your bill is a short bill. Would you just instruct us there specifically on how your amendment fits in, and if the rest of them haven't done it, they could cross out what needs to be crossed out, and... [LB459]

SENATOR SCHILZ: Sure. Yeah, and if you look at it on page 2, in line 2, where it says after proclamation it says "that," we would change "that" to "which." And that's all that it does. [LB459]

SENATOR CARLSON: Well, you got the rest of the line crossed out, don't you strike...? [LB459]

SENATOR SCHILZ: As far...with that in line 2, through "otherwise" in line 4 and insert "which", yes, that's correct. I apologize for that. [LB459]

SENATOR CARLSON: Thank you. Any questions of Senator Schilz? If there aren't, I might ask you, what prompted you to bring the bill? [LB459]

SENATOR SCHILZ: Well, and I can tell you this, having interested parties that came to me talking about this, but in my subsequent research, having lived in western Nebraska we get a lot of Colorado news. Boulder, Colorado, has actually come up with this

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ordinance where they've changed it to guardianship instead of ownership. And as we looked at it and worked with interested parties in this, we saw many, many issues with changing this relationship. And it can get extremely difficult not only for pet owners themselves, but also for anybody that wants to take care of pets such as shelters, you know, the Nebraska Humane Society. Any of those groups could run into problems if guardianship replaces ownership, so. And there will be people behind me that will be better able to explain all those situations and what they mean. [LB459]

SENATOR CARLSON: Okay. Any other questions? We may discuss this with you later. I think that there could be some clearing up so that we don't have any confusion whatever as to political subdivision and so forth, but that's something we can deal with later. [LB459]

SENATOR SCHILZ: Sure. Yep, and I would be more than happy to work with the committee and other interested parties if we need to clean up some language. [LB459]

SENATOR CARLSON: Okay. All right. Thank you. [LB459]

SENATOR SCHILZ: Thank you. [LB459]

SENATOR CARLSON: First, we would ask those that are proponents of the bill to come forward. Welcome. [LB459]

BRUCE BRODERSEN: Hi. My name is Dr. Bruce Broderson, B-r-u-c-e B-r-o-d-e-r-s-e-n. Senator Carlson and members of the Agriculture Committee, I'm immediate past president of the Nebraska Veterinary Medical Association, and I'm currently a pathologist at the School of Veterinary Medicine at the University of Nebraska. I'm here today to support LB459 which is legislation to prevent a political subdivision in Nebraska from adopting any ordinance or similar law that would describe the relationship between a person and an animal other than to state that an individual may own an animal. We would like to thank Senator Schilz and the members of this committee for your attention to what we think are very important, is a very important issue facing the animal industry and animal welfare in our state. The Nebraska Veterinary Medical Association promotes the optimal health and welfare of animals. Further, the NVMA recognizes the role of responsible owners in providing for their animal's care. Any change in terminology describing the relationship between animals and owners does not strengthen this relationship and may, in fact, harm it. Such changes in terminology may adversely affect the ability of society to obtain and deliver animal services and ultimately result in animal suffering. Specifically, the NVMA is concerned about recent developments across the country where cities and towns and even one state, Rhode Island, which have begun to refer to animal owners as guardians in their codes and ordinances. Use of terms such as guardian may create legal questions and consequences that have the potential to adversely affect both the

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animals and humans involved in these relationships. Such legal questions and consequences apply to animal owners, service providers, society, and animals. As you know, guardian is a legal term that has significant legal implications and repercussions. Under well-developed principles of guardianship law for humans, guardianship is a fiduciary relationship where the highest legal, civil duty owed by one person to another. Following the principles of guardianship law, the animal would be the ward. And the ward's interests are always to prevail over those of the guardian. If I may, I'll mention some of the questions or consequences that may arise if the term guardianship is used. If an animal becomes a ward, this could subject animals...animal owners or the guardians of those wards to civil lawsuits filed by third-party individuals on behalf of the animal. With respect to veterinary care, animal owners will have less authority and fewer treatment options. Treatment that is required because it is "in the best interest of the ward" may exceed the financial capacity of the owner to pay, yet guardianship will require that the owners accept such financial burdens. Financial inability to provide treatment could easily result in increased animal abandonment. Owners wishing to relieve animal suffering by euthanasia might not have that option. Nonhealth justifications for euthanasia, including population control, may not be acceptable under other terminology described in the human-animal relationship. Spaying and neutering may also not be possible if such procedures were not deemed to be in the best interest of the animal. The veterinarian's responsibilities become unclear if an animal becomes a ward when the guardian's direction is contrary to the best interest of the animal. Guardianship may preclude the responsible use of animals for agricultural production of food and fiber, research, exhibition and entertainment, and companionship. Use of animals and animal products for such purposes may no longer be legal in Nebraska should such laws be enacted. These are just a few of the potential conflicts which could result in a relationship of animals and persons being redefined. On the basis of these potential conflicts, the Nebraska Veterinary Medical Association recommends that nothing other than ownership should be used to describe the relationship between humans and animals. Thank you, and I'll entertain any questions. [LB459]

SENATOR CARLSON: Okay. Thank you, Dr. Brodersen. And Senator Burke Harr from Omaha has joined the group and Senator Steve Lathrop from Omaha has joined our committee. Any questions of Dr. Brodersen? I guess not. All right. [LB459]

BRUCE BRODERSEN: Thank you. [LB459]

SENATOR CARLSON: Thank you for your testimony. Next proponent, please. [LB459]

CRAIG HEAD: (Exhibit 2) Good afternoon, Senator Carlson and members of the committee. My name is Craig Head, C-r-a-i-g, and the last name is H-e-a-d, and I'm the state director of government relations for the Nebraska Farm Bureau Federation, here today on behalf of the organization in support of LB459. As was described by the previous testifier, LB459 would seek to continue the relationship that individuals share

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with animals in the terms of ownership of an animal rather than the situation that was described in terms of having animal owners in a situation of being a guardian or caretaker of an animal and having that animal serve as their ward. Our members are very interested in this issue because, obviously, we are responsible for providing day-to-day care to livestock animals across the state of Nebraska. And we're very fearful of what may happen if, in fact, we change the legal relationship wherein...the situation where we could not provide standards of care or open our members up to potentially citizen suits...civil suits that might occur from outside third parties who have concerns about the way animals have been treated. For those reasons, we support the idea of making sure that we don't have those issues in the state of Nebraska and would support LB459. I would point out that the document that I passed out to you is American Legislative Exchange Council review of this issue that was done in 2006. I would point you to page 6 within that document and it goes through the litany of issues that can arise with this movement to change the legal relationship between animals and their owners as we know that today, so. With that, I would conclude my testimony. [LB459]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Mr. Head? Seeing none. [LB459]

CRAIG HEAD: Thank you. [LB459]

SENATOR CARLSON: Thank you. Next. [LB459]

PETE McClymont: Good afternoon, Chairman Carlson and members of the Ag Committee. For the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Nebraska Cattlemen. We are here in support of Senator Schilz in LB459 and our board voted to support this bill. And not to be redundant with previous testifiers, we appreciate Dr. Brodersen's expert testimony and would echo that. The bill, obviously, as Mr. Head stated, solidifies and clarifies the relationship between an individual and an animal. And with that, we want to be on the record to be in support of the bill, and try to answer any questions, Senator. [LB459]

SENATOR CARLSON: Okay. Thank you, Pete. Any questions of Mr. McClymont? Seeing none. [LB459]

PETE McClymont: Thank you, sir. [LB459]

SENATOR CARLSON: Thank you. Any other proponents? Okay. Do we have anybody testifying as an opponent of the bill? Seeing none, anyone testifying in a neutral position? Welcome. [LB459]

GARY KRUMLAND: Senator Carlson and members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities.

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Appearing neutral today. We had some concerns about the way the bill was originally drafted, not its intent, but there's a phrase in there that could be misinterpreted and it's fairly broad language that could be used to maybe challenge some of the other legitimate ordinances and laws that the state and local governments use regarding animals. Senator Schilz's proposed amendment takes care of our concerns, and I want to thank him for working with us and thank his staff and proponents of the bill for taking care of our concerns. And with that, we have no objections to the bill. [LB459]

SENATOR CARLSON: Okay. So you've turned a neutral into a positive? [LB459]

GARY KRUMLAND: Well, or negative into neutral, put it that way. Yeah. (Laughter) [LB459]

SENATOR CARLSON: Okay. All right. I was just trying to direct you a little bit. Any questions of Mr. Krumland? Okay. Thank you for your testimony. Anyone else testifying in a neutral position? Okay, seeing none, Senator Schilz, you're recognized to close. He waives closing. So we close the hearing on LB459. And those of you that are waiting, if you came in after we started and you're going to testify, come forward and get a green sheet and fill that out. We're waiting for Senator Christensen, so we're just on hold for a few minutes. Senator Christensen is to open on LB698. [LB698]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman and members of Agriculture Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. The purpose of LB698 is to repeal Nebraska law governing the labeling of motor fuels containing oxinates which was enacted more than two decades ago. Ethanol is one of the nearly 300 chemicals that comprise gasoline. Gasoline contains 10 percent blend of ethanol, has been marketed successfully in Nebraska for more than 30 years. The EPA has ruled that gasoline contain 10 percent blend of ethanol is essentially gasoline. LB698 would still allow retailers to label their pumps containing 10 percent ethanol, if they choose. The Environmental Protection Agency has recently approved a blend of gasoline at 15 percent ethanol. At this time the agency has not developed labeling guidelines for E-15. There is no federal requirement that gasoline contain 10 percent ethanol be labeled...10 percent ethanol or less be labeled. You know, points of interest that I want to make here is Nebraska invested \$300 million to create the ethanol industry. This would be a way of enhancing that. Nebraska is the second larger producer of ethanol in America. Why not lead with all vehicles using ethanol or pumps open too? I ask you the question, where would Nebraska's budget be right now if the corn price, which has been pushed by ethanol, wasn't where we're at in agriculture? Think about the amount of money there is...that is used. Without ethanol, the price of corn would be down considerably. The state's revenue would be down. And the budget would be short more, with additional necessary cuts to make this up. This opens up an opportunity to increase production. And if you look at the increased production of ethanol, you'll see all the gluten meal by-product being used in the cattle

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feeding industry. There is a distinct advantage to feeding livestock with gluten meal. It is the ability, and is increasing the ability, for us to increase the cattle feeding industry in Nebraska. So the more ethanol we make here, the more cattle feeding that's going to follow with it. It helps us increase our state revenue. As ethanol production increases, so does potential for increasing cattle feeding. One point five billion bushels or approximately 32 percent of the corn produced in Nebraska goes into ethanol production. Think about if people ahead of us hadn't stepped up and pushed...made that \$300 million investment, hadn't increased and pushed for ethanol in the state of Nebraska, where we'd be in our budget now. The projections are ethanol will be up to 5.4 billion bushels by 2020. This is nationwide usage of corn and without that, it would hurt this nation drastically. Thank you. [LB698]

SENATOR CARLSON: Okay. Thank you, Senator Christensen. Any questions of the committee? You...yes, Senator Lathrop. [LB698]

SENATOR LATHROP: Maybe just one. I'm curious, Senator Christensen, if we take the ethanol blend off of the gas pump, which is essentially what you're saying, and people pull the nozzle up, I think some people choose the ethanol in Nebraska to support the industry. And I'm wondering if it will actually cause the use of ethanol to go down. [LB698]

SENATOR CHRISTENSEN: I happen to be one of those. I'll drive into a station. If it says, no alcohol blend here, I'll drive through. But if you think about it...I go to Colorado and when I come up to the pumps they're not marked; 85 percent octane is always nonblended. It is straight. You go up to the 87 to 89, and even 91, generally have alcohol involved in them. You would be able to sort through it. All this says is, you can still mark it 10 percent ethanol. You can mark it, no alcohol, but you don't have to. [LB698]

SENATOR LATHROP: Yeah, but my question, though, is whether or not you're going backwards in your approach? And that is, what you're telling me is you happen to know that 85 percent...85 octane doesn't have alcohol in it and it's usually the cheapest. [LB698]

SENATOR CHRISTENSEN: Right. [LB698]

SENATOR LATHROP: So I can either go to the 85 octane every time and get the cheapest gas there is, because it doesn't look like I have a choice to support the corn industry by buying a little more expensive gas that's 87 octane that I...because the pump tells me so, has ethanol in it. And so here's my question. Did you talk to somebody about...from a...what effect this will have on the use of ethanol? [LB698]

SENATOR CHRISTENSEN: I believe there's guys behind me that will tell you when

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Iowa done this, I believe Iowa was one of them, that usage actually went up for ethanol. [LB698]

SENATOR LATHROP: Okay. [LB698]

SENATOR CHRISTENSEN: And even at the... [LB698]

SENATOR LATHROP: That's the goal and I just didn't know if you were accomplishing it or taking a step backwards with this... [LB698]

SENATOR CHRISTENSEN: No, I think we're accomplishing it. And even in Colorado in the winter, their 85 percent will have alcohol in it because they have times of certain smog levels they mandate it so through the winter months, typically their 85 does. But generally it won't have and doesn't in the summer out there. [LB698]

SENATOR LATHROP: I'll be surprised to hear that because I think people pull up to the pump and buy the cheapest gas and sometimes people will pay a little bit more because there's ethanol in it. I mean, that's the way I look at it, frankly. [LB698]

SENATOR CHRISTENSEN: Probably, though, the cheaper gas has ethanol in it. [LB698]

SENATOR BLOOMFIELD: Only in Nebraska. [LB698]

SENATOR CHRISTENSEN: And that's true because you got a lot of trucking to get to Colorado and as an example I used 85 typically, don't out there and it is cheaper. [LB698]

SENATOR CARLSON: Okay. Thank you. Senator Karpisek has joined us, so now we're a complete committee. Any other questions of Senator Christensen? You talked about a number of ingredients in gasoline, one of your first statements. What was that? [LB698]

SENATOR CHRISTENSEN: There's 300 different chemicals that is utilized in making gasoline. You'll find up to 300 different chemicals in there, and them aren't labeled. The only one that's labeled separately is ethanol that's added. And I just think, especially in the state of Nebraska, it would possibly even help the sales if we didn't have it labeled. [LB698]

SENATOR CARLSON: Okay. Any other questions? Good. Thank you. Will you be here to close? [LB698]

SENATOR CHRISTENSEN: Yes. [LB698]

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SENATOR CARLSON: Okay. Okay, those that want to testify as proponents. Welcome, Senator Schmit. [LB698]

LORAN SCHMIT: (Exhibit 1) Thank you, Senator Carlson. Senator Carlson and members of the Committee on Agriculture, my name is Loran Schmit. My name is spelled S-c-h-m-i-t. I'm pleased to be here today to testify on LB698. I testify in support of LB698 on behalf of the Association of Nebraska Ethanol Producers. I hope that during the course of my testimony I can answer some of the questions that were asked because they're generally questions and questions that I raised myself, Senator, and which, I'm not sure we have the complete answer to. And we feel we obtained the answer after the change is made, perhaps. But the Association of Nebraska Ethanol Producers is comprised of 18 ethanol plants in the state who produce approximately 1.5 billion gallons of ethanol annually. Ethanol is a product that has been blended with gasoline in Nebraska at the 10 percent level for more than 30 years. LB698 removes the language which requires that any pump that dispenses more than 1 percent alcohol and gasoline be branded as an ethanol dispensing pump. There is not a single manufacturer of automobiles, automobiles, light trucks, or motorcycles sold in America today whose warranty does not cover engines fueled by a 10 percent blend of ethanol to gasoline. I'd like to cite language from the Ethanol Infrastructure Resource Guide, which is a document put together by the ethanol industry to assist the retailers of gasoline. It says, fueling motor vehicles is a regular experience for most American drivers. Gasoline dispensed at retail is a highly combustible, volatile, hazardous, and carcinogenic material produced from crude oil hydrocarbons. The material safety data sheet for unleaded gasoline shows at least 15 hazardous chemicals present in various amounts, including benzene, up to 5 percent by volume; toluene, up to 35 percent by volume; naphthalene, up to 1 percent by volume; and trimethylbenzene, up to 7 percent by volume. Since fuel dispensers are the focal point of distributing fuel to the general public, and gasoline and gasoline blends are hazardous substances, they are subject to stringent requirements regarding safety, accuracy, and security. Ethanol-blended fuels, while less toxic, are still subject to these safety requirements. Ethanol is currently the only component of gasoline that must be disclosed on a dispenser label in Nebraska despite the known proximity of many other components including those above, some of which are present in high volumes. I mention those three or four compounds, but...and I'm not a chemical engineer, but as I read the data, there are many components that go in and make up gasoline. And we have had some experience with some of those that have not been too good. It's time to remove the stigma against ethanol that is caused by the statute which requires gasoline containing ethanol in volume in excess of 1 percent to be so identified. When the bill was passed, there was really no measure of concern on the part of the industry about the identification, but the reason that Senator Lathrop gave that it identified the pump, and the retailers and the industry agreed that would encourage persons to use that fuel. And as many senators have told me, I look for the ethanol pump when I drive into the station. And, in fact, some say if I don't see ethanol, I go somewhere else. Today, because of the high percentage of ethanol-blended fuels,

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putting a sticker on the ethanol-blended pump is like putting a sign on the State Capitol. It shouldn't really be needed. Eighty-nine percent fuel is ethanol blends. It's also true that...and I don't understand all of this, but because of the lower price of ethanol, the 89 octane is frequently, not always, but frequently priced cheaper than the 87 octane. So that is another reason to encourage the use of the ethanol. There's no...you'll hear testimony from people who believe ethanol-blended fuels should be identified so that they can identify it and choose it. There's no reason why a fuel retailer cannot inform the public as to which pump contains ethanol if they so choose. This is not saying you can't identify it. We're saying it's voluntary. You may identify it if you choose. If you choose not to, that's your choice also. Many of you can remember when gasoline retailers prominently identified fuel which contained lead as a super kind of fuel which cost more than the regular gasoline. When the federal government mandated the removal of lead from gasoline, we got unleaded fuel, and that also sold at a higher price. That's quite a job of salesmanship on the part of the gasoline industry and I commend them for it. The oil industry, in an attempt to find a replacement for lead, developed MTBE and MTBE proved to be a contaminant of the underground water supply and was banned by Congress. Many of you might remember when that took place. There was a demand for ethanol and increased tremendously overnight and a big boost to the price of ethanol which, of course, led to the expansion of the ethanol producers in Nebraska and other states. [LB698]

SENATOR CARLSON: Senator Schmit, I'm going to ask you on the second page here, could you just pick out some highlights and then we have more time to ask you questions? [LB698]

LORAN SCHMIT: Sure. I was trying to avoid those questions, Senator. (Laughter) [LB698]

SENATOR CARLSON: Oh, okay. (Laughter) [LB698]

LORAN SCHMIT: Several major oil companies, not all companies...not all oil companies opposed ethanol. Several major oil companies own and operate oil...or ethanol plants in Nebraska. Some of these things have been touched on. Just wanted to mention one more thing. Since about 1985 or '82 probably, all of the state-owned vehicles in Nebraska operated on a blend of ethanol. In 1995 the state installed E-85 pumps so that the flex-fuel vehicles were able to use the E-85. To the best of my knowledge there's been no problem whatsoever with those automobiles that use those fuels. I believe it's time to remove the mandatory labeling language from our statutes and allow the individual retailer to promote his or her business as they see fit. Be glad to answer any questions. [LB698]

SENATOR CARLSON: Okay. Thank you, Senator Schmit. And I'm going to jump in and ask the first question here. Why do you really think that that's going to increase the sale

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of the amount of ethanol used? [LB698]

LORAN SCHMIT: Well, first of all, the economics of ethanol and gasoline are such that it is...if the retailer has the option to use more or higher blend of ethanol as opposed to gasoline, then it's more profitable for them to do it. Secondly, when the state of Michigan got rid of their mandatory labeling, the use of ethanol in that state increased. And I think that we will probably see, as Senator Christensen indicated, if there's no requirement for the labeling, when the economics so justify, the retailers will use a larger percentage of ethanol. [LB698]

SENATOR CARLSON: Okay. Thank you. Any questions of the committee? Yes, Senator Bloomfield. [LB698]

SENATOR BLOOMFIELD: Good morning. We visited briefly on the phone this morning. When I travel outside of the immediate Nebraska, or maybe the surrounding states, ethanol is higher priced when you get out into Illinois, Indiana. And you have to, you know, you have to look for the pump if you want to get ethanol. And I assume changing this here will have no effect on the other states and we're... [LB698]

LORAN SCHMIT: No, this only applies to Nebraska, of course, though. [LB698]

SENATOR BLOOMFIELD: I don't know, to me we're hiding it if we take it off of there. And I have some question...that same question Senator Lathrop had. [LB698]

SENATOR CARLSON: Okay. Senator Harr. [LB698]

SENATOR HARR: A question. They're going up to 15 percent, is that correct? What octane will that be? [LB698]

LORAN SCHMIT: I think about the same octane, 89, 90. It's 90, yes. Which probably allows the gasoline companies to use a lower quality of gasoline. [LB698]

SENATOR HARR: Okay. So I guess my question is, I, as a consumer...I personally don't have a reason...dog in this fight, but how would a consumer be able to tell the difference between E-10 and E-15 under the new rules? Or should I? [LB698]

LORAN SCHMIT: I think that if the...if the, well, EPA has approved E-15. So when E-15...and they're prevented now from having to do that because of the amendment passed last week in the Congress. But when that is...when those rules are accepted and promulgated, we expect that the E-15 will replace E-10. [LB698]

SENATOR HARR: Okay. Effectively replace it? [LB698]

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LORAN SCHMIT: Yes. [LB698]

SENATOR HARR: Okay. Thank you. [LB698]

SENATOR CARLSON: Any other questions? What's the highest percentage of ethanol that can be in gasoline and be legal? [LB698]

LORAN SCHMIT: To the best of my knowledge, Senator, 85 percent, 85. [LB698]

SENATOR CARLSON: Okay. So if this is removed, you may have answered it. I think Senator Harr kind of asked the same thing, but if this is removed, how do I know whether I've got E-85 or E-10? [LB698]

LORAN SCHMIT: The E-85 at the present time requires a particular type of dispensing equipment. So it's yellow, it has a particular nozzle, and that sort of thing. The E-15, I assume, would accept the role of E-10 at the present time. So it would be a distinguishing characteristic in the dispensing equipment between the E-85 and E-15. [LB698]

SENATOR CARLSON: If this became law and this is removed and if ethanol is cheaper than gasoline, what's to keep me, if I'm a retailer, from selling E-85 as E-10? [LB698]

LORAN SCHMIT: You would...the customer would soon find out that he doesn't get the mileage out of the E-85 that he would get from E-10. We recognize that there's not the energy in the E-85 that there is in E-10. [LB698]

SENATOR CARLSON: Okay. Thank you. Senator Karpisek. [LB698]

SENATOR KARPISEK: Thank you, Senator Carlson. Building off of Senator Carlson's, how would I know that it's not E-30, that the retailer isn't blending just a little bit more to make a little more money? [LB698]

LORAN SCHMIT: I think that we probably have some fuzziness now in that area. I don't know how you can control it except by the fact that Weights and Measures are pretty tough on those things. I think you remember here about a year ago, the Attorney General found some evidence of...I guess, you might call it chicanery and he took measures to put a stop to it. [LB698]

SENATOR KARPISEK: So Weights and Measures actually tests the blend when they make sure that the pumps are running at a.... [LB698]

LORAN SCHMIT: Yes. [LB698]

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SENATOR KARPISEK: Right. Okay. Thank you, Senator. Thank you, Senator Carlson. [LB698]

SENATOR CARLSON: Okay. Thank you. Any other questions? I would think that if a local retailer was selling something and putting more ethanol in, eventually if there's another place to buy in town, somebody's going to figure this out. [LB698]

LORAN SCHMIT: Sure. [LB698]

SENATOR CARLSON: Don't go to Carlson's station, you only get 15 miles to the gallon. [LB698]

LORAN SCHMIT: Right. Right. Yes. [LB698]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony. [LB698]

LORAN SCHMIT: Thank you, Senator. [LB698]

SENATOR CARLSON: Welcome, Pat. [LB698]

PAT PTACEK: Chairman Carlson and members of the Ag Committee, my name is Pat Ptacek. That's P-a-t P-t-a-c-e-k. I'm executive vice president of the Nebraska Grain and Feed Association, and I appear in support of LB698 today. Obviously, my testimony will dovetail greatly on Loran's testimony but, obviously, in my time since I've been at the Grain and Feed Association in 14 years, we've seen a steep decline in commercial storage go to a steep climb in construction jobs in new and added bushels being...it's been a great boom for our industry, obviously. Our producers are very happy with it. And a lot of my folks believe that having to label it almost stigmatizes a product that we should be as proud of as automobiles are out of Michigan. And as a matter of fact, I'll just pick up on what was said a little earlier. Over seven years ago, my counterpart working with the very small ethanol lobby in Michigan had their labeling requirements for alcohol removed. And it's increased their consumption to 90 percent. Now that's Motor City where we don't always get a good rap from car manufacturers about the use of ethanol, but I think that's a pretty positive sign. I think we ought to look at ethanol as Motor City looks at autos. This is one of the major products that we, as a state, produce, not only agricultural feeder cattle, but ethanol. And it's a fact we ought to be proud of. Secondly, I think if we do remove the labeling requirements, it's going to take years for this thing to stick in because I am, just like everybody else here at this table, I'm looking for that, either 89 so that I know it is or I know that there's ethanol. Or if that station does not serve ethanol, I will go somewhere else. It's just that simple to me. But I do believe when we get to E-15, I wouldn't be surprised if retailers would put on their pumps, proudly serving E-15, a product endorsed by the Environmental Protection Agency and

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one other tool against the importation of oil. We're close to crushing about 4 billion bushels annually for ethanol production. Most of that, a third of that product goes back to the feeding industry. So when you look at real terms, it's really, you know, we want to say 30 percent. We do buy 30 percent approximately of the product, but really when you...the distillers' feeds and the additives, it's really about 21 percent because that product is ultimately going back as a feed source to those producers. So with that, I will entertain any questions that you might have. I appreciate this opportunity to support Senator Christensen's bill. [LB698]

SENATOR CARLSON: Okay. Thank you. Questions of Pat? Yes, Senator Harr. [LB698]

SENATOR HARR: Thank you, Senator Carlson. I use E-10. My car is a 1998 car. And as I understand it, the EPA approved E-15 for cars 2001 or newer. Is that correct? [LB698]

PAT PTACEK: Yes. [LB698]

SENATOR HARR: And I...previously Senator Schmit stated that probably most stations would switch over from E-10 to E-15 once that's approved. How am I, a person who drives a 1998 car, to know that I can use that whether it's an E-10 or an E-15? [LB698]

PAT PTACEK: I'm working through that on my own. I don't believe that the rules and regulations have been promulgated on the federal level and I would assume that there would be...there would have to be some sort of requirement on the 2001 and newer. But you know, it was only less than a year ago that they were just saying 2007 and newer. And now we're all the way down to 2001 and newer and I assume that that will be taken away in a very short period of time. [LB698]

SENATOR HARR: And why do you assume that? [LB698]

PAT PTACEK: I just assume that auto manufacturers and the consumers are going to want that product and I believe...you know, we've been using it in state cars for over 30 years and we've proudly flagged that on our bumper stickers that we put on every state car and we've had no significant issues with the fleet as far as I've ever been told. [LB698]

SENATOR HARR: So it doesn't...I remember when ethanol first came out. This is just a...there was a problem with knocking and all that and I know I never had a problem on my 1998 for knocking. Would E-15 would that...is that one of the concerns, that it will cause knocking, or what is the concern? [LB698]

PAT PTACEK: I really, I really can't answer that question, Senator. I really cannot answer that question. I think it was just something that was lobbied very rigorously by

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auto manufacturers and probably to maintain the warranties on those cars. So I really can't answer the question. [LB698]

SENATOR HARR: My warranty is long gone. (Laughter) [LB698]

PAT PTACEK: All right. [LB698]

SENATOR HARR: All right. Thank you very much. I appreciate it. Thank you, Senator Carlson. [LB698]

PAT PTACEK: Thank you. [LB698]

SENATOR CARLSON: Okay. Senator Bloomfield. [LB698]

SENATOR BLOOMFIELD: Thank you. Are we with this eliminating all labeling of ethanol or just the 10 percent? I suppose if I had read... [LB698]

PAT PTACEK: I believe it's just...I just believe it's the 10 percent. [LB698]

SENATOR BLOOMFIELD: So if they jump up to 15 percent those pumps will have to be labeled 15 percent? [LB698]

PAT PTACEK: Again I can't tell you whether this bill might address that. I would almost look to see if EPA...if the complete ban on...or the complete restriction on the autos, of the year of the autos were taken away, I would assume that it would be defined as gasoline with the 15 percent high octane. [LB698]

SENATOR BLOOMFIELD: Thank you. [LB698]

SENATOR CARLSON: Okay. Any other questions? Seeing none, thank you for your testimony. [LB698]

PAT PTACEK: Thank you. [LB698]

SENATOR CARLSON: Anyone else as a proponent of LB698? Anyone testifying as an opponent? Welcome, Tim. [LB698]

TIM KEIGHER: Good afternoon, Chairman Carlson and members of the committee. My name is Tim Keigher, that is T-i-m K-e-i-g-h-e-r. I appear before you today in opposition to LB698 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. I guess we had a lengthy discussion about this bill, kind of went all directions on it. We decided that from a consumers' standpoint that they should know whether or not they're buying ethanol in their product. There are percentage of

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customers out there who do not want to buy an ethanol-blended product. Yes, if you remove this requirement, more people will blend ethanol into gasoline because there is a tax advantage there which does make it cheaper. We feel that the consumer should have the right to know whether or not there is ethanol in the product or not. It is also my understanding speaking with legal counsel...committee counsel, that this is also going to remove a requirement that the suppliers will no longer have to provide to the wholesalers or the retailers whether or not there's ethanol in the product that they are buying. Our issue with that is that if we're buying an 87 octane gasoline and it already has ethanol in it, and we put more ethanol in it, we need to know how much ethanol was in there to begin with. So for that reason we also oppose this bill. You know, sitting and listening to several of the questions that were asked earlier, yes, E-85 is a product that is available. I have several members that sell that. But it is only allowed in flex-fuel vehicles, which we, as the retailer, are responsible to make sure it's not put in a nonflex-fuel vehicle. As far as the E-15 goes, yes, you know, the EPA is working on promulgating those rules and our feeling is that you're going to have to label the E-15 because it can only be used in cars 2001 or newer. Again we're going to be the policeman, and when you pull in your...I don't know what kind of car you have, but I'll pick a Ford Taurus, whether it's a 2002 or a 1998, they may look identical. It's going to be our job to decide whether or not that consumer can put E-15 in that vehicle or not. Our other concern with E-15 is, is the product liability. The tanks and lines, epoxies that are used to put fiberglass tanks and pipes together, a lot of them have not been approved by the Underwriters Laboratory. So we're concerned as to what liability we're going to have if an E-15 product has a leak. Are we going to be covered through the LUST program, etcetera? So with that, that's our opposition to the bill, and I would be happy to try and answer any questions I may. [LB698]

SENATOR CARLSON: Okay. Thank you. Any questions? Yes, Senator Karpisek. [LB698]

SENATOR KARPISEK: Thank you, Senator Carlson. Mr. Keigher, do you know how much...okay, so when I go to the pump, there's an unleaded and an ethanol pump. Do you have any numbers on how many gallons of...are pumped without ethanol and how many are pumped with ethanol? [LB698]

TIM KEIGHER: I have some, I guess, broad numbers, yes, just coming from a couple of members of mine. I mean, the sale of ethanol-blended product depends upon the price very heavily. If ethanol-blended fuel is cheaper, the percentage of ethanol fuel goes up. Right now, it's probably in the 70 to 75 percent range according to a couple of my members. As the price goes down, people will look at the economics of it, because of the reduction in mileage, and may start buying a nonethanol-blended fuel. [LB698]

SENATOR KARPISEK: So even now, about 25 percent of the people don't want ethanol-blended probably? [LB698]

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TIM KEIGHER: Somewhere around the 20 percent range, yeah, from what I know. [LB698]

SENATOR KARPISEK: Okay. Thank you. Thank you, Senator Carlson. [LB698]

SENATOR CARLSON: Okay. Any other questions? Yes, Senator Wallman. [LB698]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yeah, thanks for being here, Tim. As of right now, do you think there's many retailers...I had a customer say it had way more than E-10 in his fuel now and it bothered his four-wheeler. But you think many petroleum marketers are doing that? [LB698]

TIM KEIGHER: Well, I would hope that they are not. I mean, it's not legal and as was mentioned earlier, there were a few retailers a couple of years ago that were found to be putting more ethanol in their product than a 10 percent and selling it as either an E-10 or as a straight gasoline. I would hope that isn't happening out there but I...it's been proven to happen, so. [LB698]

SENATOR WALLMAN: Sure. And I use E-85. [LB698]

TIM KEIGHER: Probably not members, though, just for the record. [LB698]

SENATOR WALLMAN: I have no trouble with the 85 but it's...you got to have a certain vehicle. Thanks. [LB698]

SENATOR CARLSON: Okay. Senator Larson. [LB698]

SENATOR LARSON: Under this bill, would each convenience store still have its own right to label it if they so choose? [LB698]

TIM KEIGHER: That is my understanding, yes. [LB698]

SENATOR LARSON: Okay. Thank you. [LB698]

SENATOR CARLSON: Okay. Senator Bloomfield. [LB698]

SENATOR BLOOMFIELD: Thank you. Do you know the...a rough percentage of fuel economy lost between E-10 and unleaded? [LB698]

TIM KEIGHER: You know, I know that there is a loss. Not knowing the exact number I would rather not comment on that. Someone behind me may know that number. [LB698]

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SENATOR CARLSON: Okay. Any other questions? Seeing none, thank you for your testimony. [LB698]

TIM KEIGHER: Thank you. [LB698]

SENATOR CARLSON: Anyone else testifying as an opponent? [LB698]

JOHN HANSEN: Mr. Chairman and members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I appear before you today as the president of Nebraska Farmers Union. This issue of how to best move forward with ethanol utilization is not a new one to any of the ethanol advocates in this room. So whether or not we appreciate or value ethanol utilization is not in question. The question is, what is the best way forward? The issue of labeling has also been....whether we should label or not, has been soundly discussed and cussed for many years within our own organization. We have, we think, somewhere around 70 percent of the folks who buy ethanol do so by choice. Certainly, our organization who helped build the public support and convince former Senator Loran Schmit to introduce the bill to create the Nebraska Ethanol Board in 1970, our folks are, if it doesn't say ethanol on it, they keep driving until they find a pump that says ethanol on it. So you...my organization has a lot of the old hard-core ethanol proponents. The question is, at this point in time, given the lack of certainty with EPA, EPA funding right now to even move forward and implement the E-15, is...those dollars have been held out of the House version of the budget bill for this year. So we're not quite sure how that's going to shake out. But really the bigger question is on down the road, how do we actually really substantially take EPA out from the control position on ethanol utilization? And the blender's credit at the national level, and my organization at the national level, has been in the middle of all of those issues from the beginning in a very aggressive fashion. To say right now that the blender's credit is going to be extended at the end of the year is, I would say, is less than likely a bet. We were extremely lucky, worked extremely hard to be able to get a one-year extension this last time. Given the budget pressures, I don't think that the blender's credit is likely to be renewed. So then how do you get more utilization? So one of the concepts that's being, I think, for the most part at least favorably considered on how to move forward at the national level, is to move more toward blender's pumps where consumers make informed decisions as they do in South Dakota. South Dakota has very aggressively implemented the infrastructure and the creation of blender's pumps up there, and they've had very good results relative to utilization. So when the consumer drives into the station, they make a decision whether they want none or whether they want 10 or 15 percent or 20 percent or 30 percent, 50 percent, whatever it is that they want, on up to 85. They'll probably have four or five basic choices. They get to make that call. And so based on the results of South Dakota so far, for E-85 flex-fuel vehicles, the most common fuel mix used by E-85 vehicles in order to maximize the gas mileage and the cost per mile, is a 30 percent blend. Strangely enough, the most common fuel

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mixture in South Dakota from the folks that I've talked to, for folks who do not have E-85 or flex-fuel vehicles, is also 30 percent. So while we're horsing around worrying about whether or not we're going to have 10 or 12 or go from 12 to 15 percent, South Dakota has had no adverse impacts at 30 percent in all vehicles. So Senator Harr, I think that your car is safe going from 10 to 15 percent. We have folks that have been blending ethanol at much higher levels than the 10 percent for many, many years. So in our case, we think that the likely outcome at the end of what we hope is the consensus building year is to move forward with more blender pumps in order to be able to give consumers more choice. Our concern is that if this bill were to go forward, the message might be to...might not be consistent with encouraging consumers to make more informed choices to utilize more ethanol. So we just have an honest difference of opinion and we have folks within our shop who are on very different sides of this issue but based on our policy and our support of consumers making informed choices, we have to come down fortunately on the...we were either going to be neutral opposed or just outright opposed. So we're opposed. [LB698]

SENATOR CARLSON: Okay. Thank you for your testimony. Senator Wallman. [LB698]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yeah, John, thanks for coming here. What do...I should have asked Tim. What do blender pumps cost, do you know...extra? [LB698]

JOHN HANSEN: I don't know what they cost extra. There's cost-share programs. I suspect there's several...some of them through the...in the case of South Dakota, they used stimulus dollars to also help put in those pumps. Growth Energy is helping do some cost share. USDA has some cost share. And I hear, based, if the rumor mill is accurate, that USDA will be doing some things with additional blender pumps in about two weeks. [LB698]

SENATOR WALLMAN: Thank you. [LB698]

SENATOR CARLSON: Okay. Thank you. Any other questions? Seeing none, thank you for your testimony. [LB698]

JOHN HANSEN: Thank you. [LB698]

SENATOR CARLSON: Any other testifiers as opponents of LB698? Anyone in a neutral position? Now, seeing none...Steve Sorum, I'm looking at you, and you're a member of the Ethanol Board, correct? Could we call you up here and see if we have any questions for you? [LB698]

STEVE SORUM: Certainly, Senator. (Laughter) [LB698]

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SENATOR CARLSON: And I will ask you to give your name and spell it. [LB698]

STEVE SORUM: My name is Steve Sorum, S-o-r-u-m, and I am a project manager with the Nebraska Ethanol Board. [LB698]

SENATOR CARLSON: Any questions of Mr. Sorum? Yes, Senator Brasch. [LB698]

SENATOR BRASCH: Thank you, Chairman Carlson. Thank you, Mr. Sorum. Perhaps you remember what I'm sitting here thinking is, it was 20-some years ago that President George Bush, Sr., flew across the country and stopped at the Devaney Center and promoting ethanol. He made a specific...do you recall that? [LB698]

STEVE SORUM: I remember it well. [LB698]

SENATOR BRASCH: Okay. I do too. And I thought that was when people started putting the ethanol stickers after that point. I don't know if it goes back 30 years, according to Patrick there, but I...and I have been very diligent in day one on a vehicle that every ten years it's time to trade off. You know, according to my husband. (Laugh) I drive them until they drove no more, but anyhow...and I say mechanically, my mechanic purchased my car. I'm wondering, why doesn't that 25 percent or 20 percent or whatever it is that pull up to the other pump, what is the greatest fear or what's the stigma? You know, and I'm all for...if it will sell more ethanol, take the sticker off there. But I don't know if we need like a made in America or made in Nebraska or made on the farm, or what's your perception? [LB698]

STEVE SORUM: Well, Senator, I think you have hit on what many of us perceive to be the key to this bill. In Nebraska we have had excellent success with ethanol. It's become a leading producing state. The use has been almost universal. But 75, 76 percent is the cap. Even though ethanol today costs a net 60 cents less than a gallon of gasoline in Omaha, there's still 25 percent of the people that won't buy it. Many believe that that is because there's a perception of this label being a warning signal, nothing else. None of the carcinogens in gasoline, none of the other dangerous substances are labeled, but people naturally believe that if this product is labeled and identified as something apart from what is in the other pumps, there must be a problem. And that, at least from our perspective, is why this bill was a good idea. This bill was passed in 1986. And I have to tell you at the time, the Ethanol Board supported the bill because it was at a time when we wanted ethanol to stand out. We wanted its higher octane values, its homegrown attributes, its energy security attributes. The perception was within the industry that that would be a good thing and help marketing. In fact, we have learned over the years that there is a fairly significant number of people out there that perceive it as something that's problematic because of that warning sign on the pump. [LB698]

SENATOR BRASCH: Thank you, Mr. Sorum. Thank you, Mr. Chairman. [LB698]

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SENATOR CARLSON: Okay. Any other questions? Would you explain a little bit about labeling regulations and...seeing any problems with that? [LB698]

STEVE SORUM: Labeling regulations... [LB698]

SENATOR CARLSON: Well, do you see any negatives to this bill going...not having ethanol identified? [LB698]

STEVE SORUM: I do not. We have a long history of ethanol usage in this state. In fact, I noticed the other day we're approaching ten billion gallons sold in the state over the last 30 years. I think the idea that this is a safe fuel that works in your car, we are past that. Labeling it, and many dealers will label it, and can do so voluntarily under the terms of this bill. I think depending on where one sells the fuel, you're more likely to label it in...and I don't want to, I guess, single out locations, but in rural Nebraska next to corn fields you might be more willing to label it than you would in one of the cities, for example. And that's a broad generalization. But in terms of the E-15 issues and the E-85 issues that have come up earlier, E-80...or E-15 will be labeled by EPA. They are working on that label, and the industry is concerned about that as well because that will be perceived as a warning sign. E-85 is sold in a much different manner. Those pumps must, by federal law, be clearly labeled. The color of the hose is yellow. I mean, EPA has gone out a way to differentiate E-85 from E-15. But I don't think this bill will impact, in terms of safety or mileage or anything else, there will be no impact on Nebraska motorists. [LB698]

SENATOR CARLSON: Okay. Thank you. Yes, Senator Bloomfield. [LB698]

SENATOR BLOOMFIELD: Thank you. A few years back if you bought a lawn mower or a snow blower or anything, it said right on the top of it, do not use alcohol-based fuels. Is that still an issue? And if I need to go buy some fuels for my lawn mower, am I going to...? [LB698]

STEVE SORUM: It's much less of an issue, Senator, but still an issue. The small engine manufacturers association, for example, were violent, were adamantly opposed to the E-15 rule on...by the EPA. And the fact is, they had gotten used to E-10 over the years, their equipment had evolved, and there were virtually no problems with E-10. Going to E-15 takes them out of that comfort level and will probably take some time to adjust to that as well. [LB698]

SENATOR BLOOMFIELD: Okay. Because I do still buy my lawn mower gas in a five-gallon can and carry it home for that reason. All the other vehicles, I use the E-10 in and I would think that would make it...if we don't have it labeled at all, I think that's going to make it a lot tougher for the guys with the lawn mowers. [LB698]

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STEVE SORUM: Well, the state of Minnesota that requires ethanol in all of their gasoline did make that exception. One can buy in a five-gallon can straight gasoline with no ethanol for that very reason. [LB698]

SENATOR BLOOMFIELD: Okay. Thank you. [LB698]

SENATOR CARLSON: Okay. Thank you. Any other questions? Well, thank you for being here and coming forward as I asked you to. [LB698]

STEVE SORUM: Well, thank you, Senator. [LB698]

SENATOR CARLSON: Okay. Anyone else testifying in a neutral position? Seeing none, Senator Christensen, you're recognized to close. [LB698]

SENATOR CHRISTENSEN: Thank you, Chairman and members of the Agriculture Committee. Just to give you an update. Where Michigan went was up to 90 percent. I think one of the testifiers mentioned that after they removed their labeling. Nebraska is still in that 70 to 76 percent range as you heard. And reemphasize E-85 is less. As Steve told us, that would still be marked E-15. They're working on the rules to mark. I think you got them safeties. You know, I remember when they said you couldn't use E-10 in older vehicles. I had an old '76 pickup which still runs today. I run E-10 in it ever since I purchased it. And so it never did cause any harm. Never did have any problems, and so I think it was more of a unwarranted claim back at them times. Blender pumps, I was told back here, cost between \$20,000-\$30,000 to address that question. And I guess that's about all I have here that I remember hearing to update. If there's any questions. [LB698]

SENATOR CARLSON: Okay. Senator Bloomfield. [LB698]

SENATOR BLOOMFIELD: I had a '75 Nova and I was so proud of myself for sticking ethanol in it. It cleaned all the crud out of it that had built up and it took me three fuel filters to get it running again. (Laughter) [LB698]

SENATOR CHRISTENSEN: Why, I had that problem on one vehicle where I had to put two fuel filters in. But you know what, when your system is cleaned up, you're better off. [LB698]

SENATOR BLOOMFIELD: Yeah, you are. [LB698]

SENATOR CARLSON: Okay. Any other questions? Yes, Senator Harr. [LB698]

SENATOR HARR: Just quickly. There's a federal reg that's coming out that will label it

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E-15. However, that's being held up in the House right now. I guess my issue is, I have no problems with this as long as E-15 is marked so. Unfortunately, I probably will follow the manufacturer and EPA recommendations, so I'll go from ethanol probably to nonethanol. But I want to make sure that I have some marking or way of knowing when it goes from E-10 to E-15. And as soon as those regs get through the House, I guess, it's more of a comment than a statement, I'll have no problem with passage of this bill. But until that time, I have a slight problem just because I fear for my car. I only make \$12,000 a year so I have to nurse it along as well as I can. So...and I guess it's not a question, more of a comment on this. It's a...or a concern, I should say. [LB698]

SENATOR CHRISTENSEN: Another alternative we could use if you put in on page 2, the green copy there, put in the language back in where it says, contains 1 percent on line 9, 1 percent or more by volume of alcohol. You could put 11 in there. And you would accomplish the same thing that my bill does with striking this because of the rules and regs on E-15 that I expect and E-85 that's there. [LB698]

SENATOR HARR: And you would be, obviously, open to that. [LB698]

SENATOR CHRISTENSEN: Yeah. I'd be open to that. [LB698]

SENATOR HARR: I like that. Thank you. [LB698]

SENATOR CARLSON: Okay. Any other questions? Thank you, Senator Christensen. [LB698]

SENATOR CHRISTENSEN: Thank you. [LB698]

SENATOR CARLSON: (Exhibits 2-4) With that, we close the hearing on LB698. Thank you for coming to testify. Oh, and members of the committee...members of the committee, we've got letters of...you have in your booklet, you've got two letters of support, one from Robert Andersen of the Nebraska Cooperative Council and the other from Nebraska Corn Growers. And then a letter...opponent, from Michael Stanton, president and CEO of the Association of Global Automakers. So those are three letters that you have in your notebooks. With that, we are ready to open the hearing on LB200 for the second time with good reason. So if Senator Council...you're recognized to bring us back to speed on LB200. [LB200]

SENATOR COUNCIL: Thank you, Chairman Carlson. Members of the Agriculture Committee, I will be brief. I'm Senator Brenda Council, last name for the record, spelled C-o-u-n-c-i-l, and I represent the 11th Legislative District. As you may recall, LB200 was originally scheduled for hearing on February 1, and the hearing was conducted, notwithstanding the weather conditions at the time. In fact, the only reason I was available to open on the bill on the 1st was that I had spent the night in Lincoln the night

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before in anticipation of my inability to traverse I-80 to get back on February 1. I had advised Chairman Carlson that there were several individuals and organizations who had planned to appear and offer testimony on LB200, I want to presume the bulk of which is supportive. And in order to provide an opportunity for the committee to hear from those who have an opinion, either in support, opposition, or neutral on LB200, Senator Carlson agreed to schedule another hearing. And so I'm not going to take up the time of the committee talking about LB200 other than to briefly remind you that what it does is to establish the Nebraska Food Financing Initiative Act and provides for an annual appropriation, initially of \$100,000. And if you will recall when I opened on the bill February 1, I told you I was looking for an alternate funding source. And I have, in fact, identified that source and the source does allow us to provide an annual appropriation of \$150,000. And that will be coming from taking the balance out of the Community Development Investment Fund, and I have an amendment drafted to cover that. I'm not offering the amendment at this time because since February 1, I've been in a lot of communication and conversation with individuals who are very supportive of LB200 and have some minor technical amendments that need to be addressed. And I suspect that you will hear some of those from speakers today, but one of which I didn't receive until yesterday from the Center on Rural Affairs. And it's really a technical amendment and I think there's a misunderstanding. The bill provides that the grants can only be awarded to a community development entity and reference is to a section of the United States Code or the Internal Revenue Service Code, and there's some confusion as to whether that reference is to a community development financing and investment group or just to a community development corporation. And the intent was clearly to the community development corporation, and we can make that clearer. Because if you look at the section that's referenced, 26 U.S.C. 45D, it says, a qualified community development entity for purposes of this section, the term means that it's a domestic corporation or partnership if the primary mission of the entity is serving or providing investment capital for low-income communities or low-income persons. The entity maintains accountability to residents of low-income communities through their representation on a governing board. I think there's some confusion because the language that the primary mission of the entity is serving or providing investment capital, so they don't have to necessarily be a CDFI as long as they're serving low-income communities. And I think we can address that. And I guess just in summation, the LB200 provides for the creation of the Healthy Food Financing Initiative Act funding through grants awarded by the Rural Development Commission to entities and organizations whose activities will lead to the elimination of food deserts across the state. And with that, I'll answer any questions you may have, but the purpose of the rehearing was principally to allow the committee to hear from others. [LB200]

SENATOR CARLSON: Okay. Thank you, Senator Council. Any questions? Okay. Thank you. And I assume that...how many people are going to testify as proponents of the bill? Okay. And so I'd ask you, don't be bashful. Let's have one come forward and then we'll put the five-minute lights on here. And again, as you come forward, please

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state your name and spell it. The green light is on for the first four minutes, and then the yellow light will be on for a minute, and when the red one comes on, wrap up your testimony, please. Welcome. [LB200]

PAM EDWARDS: (Exhibits 1 and 2) Thank you. I'm Pam Edwards, P-a-m E-d-w-a-r-d-s. Good afternoon and thank you, Senator Carlson. My name is Pam Edwards. I am a registered dietitian and the current president of the Nebraska Dietetic Association. I speak on behalf of the 600 registered dietitians who are Nebraska's food and nutrition experts. Thank you for the opportunity to present information concerning food deserts. Senator Carlson's staff requested the expertise of the Nebraska Dietetic Association in committee meetings this past summer and asked for our expert testimony at the public hearing for LR453, food deserts, on October 22, 2010. Specifically, our association was requested to provide description, causes, and consequences of food deserts, specifically providing linkages of limited food access to adverse health outcomes. The Nebraska Dietetic Association is in support of LB200, and today I will be presenting background information about food deserts for the members of the Agriculture Committee. In addressing this issue, I will provide information gathered from the Centers for Disease Control, the Yale Rudd Center for Food Policy and Obesity, and the American Dietetic Association. I have also attached a 2010 report from the American Dietetic Association for your review. Also one registered dietitian, who is a member of our association, will be presenting testimony on data and research gathered from her work with Nebraska communities affected by food deserts. So in a description of food deserts, according to the Centers for Disease Control and Prevention, food deserts are defined as areas that lack access to affordable fruits, vegetables, whole grains, low-fat dairy products, and other foods that would provide a wide range of healthy food choices. To begin, a report from the Yale Rudd Center includes the following as causes for food deserts: low-income areas that have fewer supermarkets and groceries than do predominantly middle- and high-income neighborhoods; stores in low-income neighborhoods that stock fewer healthy items and have lower quality fresh produce; and when fresh produce is available, higher costs are associated with those food items; and public transportation is often lacking to the supermarkets and the grocery stores. There are many consequences of food deserts according to the CDC review and a report on food insecurity published by the American Dietetic Association include information showing that convenience stores such as Kwik Shops, Kum and Go, and Dollar stores are the neighborhood grocery stores in food deserts. Convenience stores stock a higher percentage of processed food items that contain higher fat, sodium, and sugar content compared to fresh food items. Food insecurity is prevalent in lower-income areas, and the risk of chronic disease and chronic disease occurrences are higher in lower-income and food desert areas. Low-income people, minorities, and rural residents suffer the highest rates of preventable, diet-related diseases linked to the insufficient consumption of healthy foods. The diseases that are most often reported are obesity, diabetes, and cardiovascular disease. Now moving from consequences to interventions, there are currently a number of programs that can provide a wide variety of immediate

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interventions. These include private and public agencies ranging from Second Harvest to the Women, Infants and Children program, the WIC program. And recently these programs have been improved to include more education and incentives for participants to choose fresh food products. In addition, long-range programs need to include both local farmers and education. Related to local farmers, I would like to note that at a December 3, 2009, public hearing, LR42, the Examine Farm to School Programs, the Nebraska Dietetic Association presented support for the development of Farm to School Programs in Nebraska in order to reconnect students to the food they eat and also to provide education to schools. Some examples and benefits of potential food desert intervention programs involving farmers and education include: farmers' markets that boost the income of local farmers while increasing access to fresh produce and dairy products; community gardens to help low-income households to supplement their meals with fresh produce; Farm to School initiatives that assist local farmers in selling their fresh produce; food recovery programs that rescue wholesome food from being thrown away and instead being used; and incentives and grant funding to attract supermarkets to underserved areas. And lastly, nutrition, education and cooking demonstrations provided by registered dietitians that provide recipes and ways for people to use this produce. In summary, changes to the environment are essential to help individuals make changes to improve their food choices. Decreasing the incidence or at least delaying the onset of chronic diseases can decrease health-related costs that burden the government and individuals. According to the Yale Rudd report, bringing supermarkets to low-income areas and helping smaller groceries expand their stock of healthy and affordable food items is a win-win situation for communities and residents who will gain access to healthy foods; increase potential to reduce obesity through healthy eating; new jobs; increased revenue; increased potential for commercial revitalization; capacity building of community organizations; and local businesses will also benefit from market expansion and revenue; more foot traffic to neighborhood areas and contributing to the community public health and economic well-being. Thank you. [LB200]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions of Ms. Edwards? [LB200]

PAM EDWARDS: I would like to just...one little note that I think I read something on. It was just January 28. You all probably heard that Walmart has identified several things that they're doing to improve the health of food for our nation. And one of the points that they made is that they are going to be working on reducing or eliminating food deserts in this country. So I thought that was interesting--leadership role of Walmart in the food desert area. [LB200]

SENATOR CARLSON: Okay. Thank you. Senator Karpisek. [LB200]

SENATOR KARPISEK: Thank you, Senator Carlson. Sorry, we had to bring up

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Walmart. (Laughter) In my opinion, if we didn't have Walmart, we wouldn't have so many food deserts because they have run so many businesses out. [LB200]

PAM EDWARDS: That's true and that's the reason that it's kind of an oxymoron then to bring that up and paradox a bit. [LB200]

SENATOR KARPISEK: Are we not worried with this that we're giving an advantage to a business to build and we take the competition away down the street? [LB200]

PAM EDWARDS: You know, I don't see it that way. I see it as trying to work with communities. And I think that you will hear a report from others that it's not necessarily taking business away but working with current businesses to improve what they're doing to recognize the problems. [LB200]

SENATOR KARPISEK: But we've got construction and site development and site building...site acquisition. That sounds like new business to me. Now, and I understand, maybe there's nothing anywhere even near but being a former business owner, I would have a little trouble with the state being involved with money to help somebody get a business to compete against me. I absolutely understand what you're talking about here, and I...I need to lay eyes on it. I will admit I haven't seen exactly where we're at, but it is a concern. But that's another concern of mine that...now if we're going to somehow compete against Walmart, I'm in. (Laughter) But anyway... [LB200]

PAM EDWARDS: That's a bad example. I shouldn't have brought it up. (Laughter) [LB200]

SENATOR KARPISEK: Yeah, don't talk to a small businessman about Walmart. I'm sorry. (Laughter) Thank you for being here. [LB200]

PAM EDWARDS: You're welcome. [LB200]

SENATOR CARLSON: Okay. Any other questions? Okay. Thank you for your testimony. [LB200]

PAM EDWARDS: You bet. [LB200]

SENATOR CARLSON: Welcome. [LB200]

NATALIE SEHI: (Exhibit 3) Hello, I'm Natalie Sehi, first name N-a-t-a-l-i-e, Sehi, S, as in Sam, e-h-i. Good afternoon and thank you, Senator Carlson and committee. My name is Natalie Sehi and I am a registered dietician and extension educator at the University of Nebraska-Lincoln. My major job responsibility is to help coordinate the nutrition education program. NEP is an umbrella term that includes both the Supplemental

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Nutrition Assistance Program-Education or SNAP-Ed project, and the Expanded Food and Nutrition Education Program, EFNEP. NEP is the largest nutrition education program in the state and is available for limited resource families. The Supplemental Nutrition Assistance Program, SNAP, is designed to supplement an individual or family food budget. The benefits an individual or family receives is supposed to supplement a food budget, not be the food budget. However, in most of the families we work with the benefits are the only resource for food. This also impacts food purchasing power. As of September 2010, approximately 10 percent of Nebraskans were receiving SNAP benefits with the largest increase being in our rural areas. One thing to remember about this statistic is that our state SNAP participation rate is approximately 65 percent, meaning we have 35 percent who qualify for SNAP, but do not participate in the program. To qualify for SNAP, participants must live at or less than 130 percent of the federal poverty level. For example, a family of four must have a monthly income of less than \$2,389. I am here today to provide testimony on how food deserts affect limited resource families and children in Nebraska. Food insecurity is defined as limited or uncertain access to nutritious, safe foods necessary to live a healthy lifestyle. Current statistics estimate that about 10 percent of Nebraskans are food insecure and another 3 percent are food insecure with hunger. In addition, another 20 percent are borderline food insecure and lack nutrient-dense foods in their diet. According to the Dietary Guidelines for Americans, nutrient-dense foods are those foods that provide substantial amounts of vitamins and minerals and relatively few calories. In our urban and rural areas, we have two major food desert issues, the first being physical limitations. Included in that is the limited choice of places to purchase foods, such as grocery stores, food markets, etcetera, and the lack of nutrient-dense foods at the store. The second is financial limitations--lack of nutrient-dense foods at reasonable cost and the lack of resources to travel to the store. The Nutrition Education Program tries to address both of these issues with our families, especially the financial limitations. We work with them on improving their diet quality and food resource management skills. Areas that we focus on are meal planning and shopping, food resource management, MyPyramid Basics, MyPyramid Food Groups, food safety, watching your fats, sugars and salt, and breakfast. Eligible individuals and families complete a series of seven nutrition and food budgeting lessons. Upon completion of the lessons listed above, they receive a graduation certificate and cookbook. Through an entry and exit behavior checklist and diet history, we have been able to document the changes families make by participating in this program. Families enrolled in NEP have shared that one of the barriers to being successful is the lack of healthy food choices in the area. By improving the food deserts in Nebraska, we can help families be more successful in adopting good dietary behaviors. Although NEP cannot solve the physical limitations, we can provide participants the tools necessary to make healthy dietary choices despite the limitations. Food safety is of particular importance in both urban and rural areas if someone has to travel a significant distance to a grocery store. Food safety is another barrier in families purchasing perishable nutrient-dense foods such as milk, meats, dairy, eggs, cheese, fruits, and vegetables. It is easier to transport canned foods, convenience box meals,

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and chips. This impacts a family's ability to make healthy dietary choices. An example of an EFNEP success story is, after taking the classes I am saving \$50 to \$60 each month on groceries. I am able to do this by comparing prices and only buying what I need. I accomplish this by making a weekly menu with the foods that I have in the house and buy the rest from the sale ads, and then write a shopping list from the foods I don't have, and buy only what is on hand. I have to travel 70 miles to Walmart, sorry, (laugh) so I try to make sure I get everything that I need and the list helps me accomplish that. [LB200]

SENATOR CARLSON: Okay. Would...spell your last name again, would you, please? [LB200]

NATALIE SEHI: S, as in Sam, e-h-i. Four letters. [LB200]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? You gave some statistics early, let me see that I got these straight. What's the 35 percent? Was that the percentage of people that qualify for SNAP? [LB200]

NATALIE SEHI: I said that the statistic in Nebraska is that SNAP participation rate is approximately 65 percent, which means that 35 percent who qualify for SNAP benefits don't actually participate in the program. So... [LB200]

SENATOR CARLSON: Oh, so that neither one of those gives the percentage of the population? Okay. So of those that do qualify, only 35 percent actually participate. [LB200]

NATALIE SEHI: Thirty-five percent do not participate, 65 percent do. [LB200]

SENATOR CARLSON: Okay. Okay. All right. Thank you. Senator Wallman. [LB200]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yeah, thanks for being here. Food safety is...I'm an ag producer so...does the university teach people how to can and everything yet, or not? [LB200]

NATALIE SEHI: Does the program that I'm involved with? [LB200]

SENATOR WALLMAN: Yeah. [LB200]

NATALIE SEHI: No, extension as a whole would. University of Nebraska-Lincoln Extension Program does more of that. We just teach more about the food safety side in cooking and preparation and storage. [LB200]

SENATOR WALLMAN: Okay. Thank you. [LB200]

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SENATOR CARLSON: Okay. Any other...Senator Karpisek. [LB200]

SENATOR KARPISEK: Thank you, Senator Carlson. [LB200]

NATALIE SEHI: Just because I said Walmart, huh? (Laughter) [LB200]

SENATOR KARPISEK: Unfortunately, I have to go there, too, because they run almost everyone else out. (Laughter) I'm trying to be funny about it, but could Walmart, if they were to open a business, use some of this money, in theory, do you think? [LB200]

NATALIE SEHI: I personally don't know the answer to that. [LB200]

SENATOR KARPISEK: Okay. I'd think about how you answer that, Senator. (Laughter) No, and it doesn't matter. I pick on Walmart because I was in a meat market. I mean, I don't care what...if you're the little co-op changing oil, you wouldn't like T.O. Haas or whoever. So anyway, of course, Walmart changes oil too, I guess. But anyway, thank you, Senator Carlson. [LB200]

SENATOR CARLSON: Okay. Any other questions? Okay. Thank you for your testimony. [LB200]

NATALIE SEHI: Thank you very much. [LB200]

SENATOR CARLSON: Now I'm going to ask about three of you to come up at once. The one that's going to testify next and then two of you in each chair...one of you sit by Senator Council and the other one on the other side and we'll be ready to go here. And there's no reason to be nervous because this is a nice group of people so you just relax and...okay. Welcome. [LB200]

GREGORY FRIPP: (Exhibit 4) Good afternoon, Senator Carlson and members of the committee. My name is Gregory Fripp, that's spelled G-r-e-g-o-r-y F-r-i-p-p. I am a beginning farmer. Mr. Chairman and members of the Agriculture Committee, I am here testifying as a beginning farmer and director of the Whispering Roots Sustainable Food Project. I fully support Senator Council in her efforts to seek approval of LB200 which will bring much needed attention and financial support to rural and urban communities that lack access to affordable, nutritious food. The need for this type of initiative is so great that I left a well-paying job with a large financial corporation in Nebraska to focus solely on creating an affordable system for growing fresh vegetables and fish in underserved and high-poverty communities throughout the state. And I have a strong desire to be a part of the solution to this problem that affects so many Nebraskans. If LB200 is successful, it can provide greater opportunity for farmers, co-ops, nonprofits, individuals, communities, and other interested parties to bring effective, sustainable,

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and repeatable nutritious food projects to life. In addition, the bill will enhance the ability of rural and urban underserved communities to access healthy food, eat healthy meals, and create jobs. And might I add that, you know, earlier we were talking about competing with other companies. The fact of the matter is, in these food deserts in these urban communities, nobody is coming. That's why we're all here, so. I urge your support of LB200, and this concludes my testimony. And I'd be happy to answer any questions. [LB200]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions? Yes, Senator Bloomfield. [LB200]

SENATOR BLOOMFIELD: Thank you, Senator Carlson. As a retiring farmer, you're welcome to the challenge. Can you explain Whispering Roots to me a little more? I've never heard of it. [LB200]

GREGORY FRIPP: Sure. Whispering Roots, it's a new sustainable food project, so what it's doing is we are working on building affordable aquaponic systems which will take fish effluent. We use that to put that water into growing beds to grow organic vegetables such as tomatoes, cucumbers, things of that nature. So it's something that we can make small and put into these communities who can't afford large systems. It's something that will allow them to help build something that will feed themselves. So that's the ultimate goal of the project is to help communities feed themselves in areas where no one is coming. [LB200]

SENATOR BLOOMFIELD: I'm sure the research has been done so we're not getting fishy tasting tomatoes. [LB200]

GREGORY FRIPP: Not at all. (Laughter) You know, it's really interesting. It's totally organic, so what happens is as the water...and there's the growing beds, the growing beds convert that into nutrients, and the roots from the plants suck up those nutrients. They clean the water and then we pump the water right back into the fish tank so the fish can continue to grow. [LB200]

SENATOR BLOOMFIELD: Super. Thank you. Any chance of getting a little tour at some point? [LB200]

GREGORY FRIPP: Yeah, actually...yes, I will. I'm also working with Casey Foster. He's been giving me some information. He's with part of the agricultural board. [LB200]

SENATOR BLOOMFIELD: Okay. Thank you. [LB200]

SENATOR CARLSON: Okay. Senator Brasch. [LB200]

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SENATOR BRASCH: Thank you, Chairman and thank you, Mr. Fripp. Do I understand your tanks don't have chemicals for your fish either? [LB200]

GREGORY FRIPP: They don't have chemicals. [LB200]

SENATOR BRASCH: Okay, because I'm told buy only wild salmon and not farm-raised salmon that... [LB200]

GREGORY FRIPP: Yeah. What we do is just use straight water. We put the water into the fish tanks. We use organic feed, and the fish eat, the fish go to the bathroom, we pump that water into the plants. The plants suck it up and then the water goes right back in. And just so you know, I've also...was speaking with a member from Purdue University who works with the soy board who is developing a completely soy base feed. So that would also have...be applicable to our farmers who are growing soy. So what I'm trying to do is increase the ability for everybody to make money by using the resources that we have in hand. [LB200]

SENATOR BRASCH: And what kind of fish, did you say? Say again. [LB200]

GREGORY FRIPP: Our fish that we are going to be using is tilapia. It's a very hardy fish. It breeds very quickly. We can probably bring them up to market in-between somewhere six to eight months depending upon the strain of tilapia that we grow with. [LB200]

SENATOR BRASCH: And this is located where? [LB200]

GREGORY FRIPP: Ours...I'm based out of Papillion. We're looking at growing in north Omaha because that's basically where I live in that area. But the system that I'm designing would be applicable to anywhere in the state and that's why we're trying to build something that's affordable and sustainable so it doesn't matter where you live, because, you know, in my mind, hunger hurts no matter where you live. [LB200]

SENATOR BRASCH: That's very commendable. Thank you. [LB200]

SENATOR CARLSON: Okay. Senator Bloomfield. [LB200]

SENATOR BLOOMFIELD: Lydia, Senator Brasch, asked the question where are you and you answered that. I would certainly like to hear more out of you on the q.t. [LB200]

SENATOR CARLSON: Okay. Any other questions? Okay. Thank you for coming. Thank you for your testimony. [LB200]

GREGORY FRIPP: Thank you for having me. [LB200]

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SENATOR CARLSON: Next testifier. Welcome. [LB200]

SUSAN WHITFIELD: (Exhibit 5) Welcome. Good afternoon, my name is Susan Whitfield, W-h-i-t-f-i-e-l-d. Good afternoon, Senators. I am project manager with No More Empty Pots, and No More Empty Pots is a recognized nonprofit in the state of Nebraska. The organization received its 501(c)(3) designation in November 2010. We serve the Omaha metropolitan statistical area and its estimated population of approximately 820,000 individuals in eastern Nebraska and western Iowa. We plan to...we manage a coalition of participants including public and private organizations, businesses, entrepreneurs, and volunteers. Participants collaborate in the creation of both traditional and innovative, high-quality food products and services, using environmental and financially sustainable practices. Priorities include support for fair wage, food-related businesses, improved regional self-sufficiency, food security, production, distribution, and local and regional citizens. Our vision is based on the belief that community and its needs are the foundation upon which our agenda is constructed and managed. At this time I'm going to turn to one of our coalition members to share more on our testimony. This testimony will be in three parts. [LB200]

SENATOR CARLSON: Okay. [LB200]

SUSAN WHITFIELD: That concludes my part of it. [LB200]

SENATOR CARLSON: All right. Okay. Thank you. [LB200]

SUSAN WHITFIELD: Thank you. [LB200]

SENATOR CARLSON: And next, come up and tell us who you are and spell your name and you can pick right up there. [LB200]

ANNETTE ARTHERTON: Senator Carlson and other members of the committee, I'm greatly appreciative of you honoring a time that we could come back because of the weather and present our testimonies to you in support of LB200. My name is Annette Artherton, last name is spelled, A-r-t-h-e-r-t-o-n. As Susan said, I am a member of the No More Empty Pots coalition. In my paying job, (laugh) I am the research and development director for a community development corporation located in north Omaha. Its title is Omaha Economic Development Corporation. And I would like to kind of continue with the introduction that Susan gave and I also, during the course of my testimony, I'd like to reference you to several maps that are contained in the document that we provided today. As Susan said, within the Omaha MSA and, in fact, throughout the entire state of Nebraska it's well known that people suffer from an inequitable access to healthy food. A study that was funded by the Brookings Institute called the Reinvestment Fund's Supermarket Study of Low Access Areas actually concentrated

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most...a portion of its work on the state of Nebraska. And it looked to analyze three components of food desert issues. One was to look at areas that are currently underserved by full-service supermarkets. Then second, to stratify these underserved areas as having grocery store leakages which are an economic factor that impacts the continued disinvestment in these areas. And then the third component was that it would provide a tool for organizations or entities or committees such as this to look at the issues of food deserts from a variety of perspectives, being health, economics, and food security issues. Their methodology is explained in the document, but I do want to call your attention to map number one. This is a map of the entire state of Nebraska. It is an identification in purple of the areas across the state, so it's not just an urban issue, it is a statewide issue, that lack access to healthy foods and as a result, individuals are traveling anywhere in the rural areas from 70 to 100 miles to access foods at a supermarket. And in the urban areas there are other barriers that I'll address as I go through my testimony. But if you look at the map, and I did before I came today, I looked at, so what counties are some of these? And I'd like to kind of give you a brief summary of the ones that are impacted that the study showed. Anywhere from Sioux, Box Butte, Sheridan, Garden, Cherry, McPherson, parts of Lincoln County, Hayes, Frontier, Red Willow, Brown, Blaine, Frontier, parts of Gage, Platte, Colfax. So again, it's not just an issue that is an urban access issue. It is across the entire state of Nebraska. I think someone also testified again today about 9 percent of all Nebraska households are actually considered food insecure. In other words, they lack access to sufficient food to meet their basic needs. Of these, over 55 percent are households with children under the age of 18, again a far-reaching hunger issue within our state. The second map that's in there that is more pertinent to the urban areas is the retail demand that is being not met because of this issue within the state. And it's...if you look at it for us in Omaha, the concentration of the little orange dots shows that there is significant leakage in excess of \$8 million annually for people or individuals looking for food. Some of the other data that's contained in here is very pertinent to the service area that I work in. It talks about the unemployment rates, the high poverty, the condition of children. It also goes through some of the significant health issues that are very typical of the area from the high cancer death rates, infant mortality, low birthweights, and then the death rates associated with heart disease, none of which have been specifically tied to the lack of food or access to healthy food, but certainly there can be correlations that can be drawn between the two. Specific health issues, lack of food, lack of employment, all contribute to the conditions that we see in the urban communities that are significantly affected by the lack of healthy food outlets in our community. And for this reason, we, as an organization, strongly support LB200. [LB200]

SENATOR CARLSON: Okay. Thank you. Now let's see, do we have any questions? I'm going to ask you. Go to the second map, would you, grocery retail demand? Explain the leakage of the \$8 million and the \$20 million, would you...? [LB200]

ANNETTE ARTHERTON: Twenty million is actually the demand for goods within those

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areas that are orange dotted. And actually when you use this tool, it can go anywhere from...if there's a demand in the range of 2 million all the way up to 20 million, it will identify those areas that if your demand is this, how much money is actually going out of the community to buy goods or services. So the map shows if you had a demand for 20 million, and the condition of 8 million being lost out of the community because there is no supermarket outlet. [LB200]

SENATOR CARLSON: Okay. But we talk about grocery leakage, is that...where does it go? Where... [LB200]

ANNETTE ARTHERTON: In the case of Omaha or the community that we work in in Omaha, if an individual...within that geographic area that No More Empty Pots is very focused on, those individuals typically are either using convenience stores or driving over to Council Bluffs where there is a Walmart or they'll go farther, five or ten miles out to other supermarkets. In that way, they have to rely on either public transportation that's available out of their...to get them out of their community to reach these other destinations. [LB200]

SENATOR CARLSON: Okay. Now this is a question that maybe some would hesitate to ask because I hope I'm understanding the leakage. I understand if somebody is spending quite a bit of their money at a convenience store, they're not getting a good deal. [LB200]

ANNETTE ARTHERTON: No. [LB200]

SENATOR CARLSON: They could buy far more healthful foods for less money. However, if they have access to that, then obviously that convenience store is going to lose some business. That's just a fact of life. The other leakage that goes out of the community to Walmart or wherever as long as it doesn't go across the river, it's still in Nebraska, but it's...the same amount of money maybe is spent and maybe they're getting to a place where they get good foods, it's just...it's not convenient and maybe...would they be spending more money if it was more accessible to them? [LB200]

ANNETTE ARTHERTON: If it was more locally based? [LB200]

SENATOR CARLSON: Yes. [LB200]

ANNETTE ARTHERTON: That is...this study doesn't indicate that. However, if you take in the community of north Omaha, there's approximately \$2 billion spent annually on food. Within that service area there are, I think, four or five convenience stores and there is a pseudo grocery store who does not provide healthy foods. Okay. So if \$2 billion is being spent annually and yet because it's not providing healthy foods or good

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foods, it could be \$2 billion that comes back in that improves the local economy there or a portion thereof of the \$2 billion. [LB200]

SENATOR CARLSON: Okay. Okay. Thank you for that. Senator Wallman. [LB200]

SENATOR WALLMAN: Thank you, Chairman Carlson. Yeah, thanks for showing up here. I'm somewhat familiar with north Omaha. I know they have a Baker's and a Walmart and also they have Wenninghoff, you know, off of 72nd there somewhere. [LB200]

SENATOR COUNCIL: It doesn't count as north Omaha. [LB200]

SENATOR WALLMAN: Oh. And do the Wenninghoff dairies actually, I mean, Wenninghoff, how you pronounce that, they have quite a...do they sell to food markets or how do they sell their stuff? [LB200]

ANNETTE ARTHERTON: They are predominately a farmers' market. I think that there's another one that is connected with bread to the Hy-Vees. However, we are not talking about north Omaha out to... [LB200]

SENATOR WALLMAN: That far north. [LB200]

ANNETTE ARTHERTON: Yes. [LB200]

SENATOR WALLMAN: Okay. Sorry. [LB200]

SENATOR CARLSON: Okay. All right. Any other questions? Okay. Thank you for your testimony. Welcome. [LB200]

JULIE CARDA: Thanks for having us today. I was coerced but not because I didn't...I don't have a passion for this. It's being in front of you all is intimidating. My name is Julie Carda, and that last name is spelled C-a-r-d-a. And I'm a community outreach coordinator for No More Empty Pots. I do that on a volunteer basis. Currently, north Omaha community members in general access food have a series of convenience stores, which you've just heard, corner stores and gas station outlets. Most households have one vehicle shared among all family members, further limiting accessibility to alternative food markets. Available food items are primarily cheap in quality with high caloric, low nutrient value derived from fats and sugars. Subsequently, these communities with no or not easily accessible grocery stores and/or with an imbalance of healthy food options, including an oversaturation of fast food venues, have increased premature death experience and chronic health conditions. Further, the obesity rate for children in the geographic area is 14.7 percent and for adults that's 29.1 percent. Reducing the vulnerability of these residents is key. There are many critical food system

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issues where access to healthy locally grown foods play a role, healthy community food security, childhood obesity and wellness. LB200 can help alleviate one contributing factor from the stack of many. Further, No More Empty Pots strongly supports LB200, Healthy Food Financing Initiative, as a clear approach for increasing access to locally grown healthy foods. By investing in local food economies, you're increasing the number of full-service grocery stores in underserved communities. LB200 would increase the number of jobs in the state's food and agriculture distribution economy, jobs that cannot be outsourced, and benefit residents at the local level resulting in real systemic change. Clearly, the data shown in map two demonstrates that there is a tremendous market need and demand for these products. Food retailers are not simply another food establishment within the field of economic development and community revitalization. By encouraging small business development related to food retail and food distribution, LB200 can indirectly support the growth of entrepreneurial businesses that enhance existing neighborhoods and communities and provide diverse food purchasing options for residents. The first decade of the first...of the 21st century saw a widening in employment rate gaps among young adults of color, ages 25 to 29, declining labor, underutilization rates, and disparity in hourly wages across all educational groups of African-American young adults, have contributed to extraordinarily high differences in annual earnings, incomes, and placing more at risk of poverty and dependency. Locally owned and operated stores can provide important opportunities for entry level workers and entrepreneurial small business owners within their own neighborhoods. They can provide important entry level or management level job opportunities, accessible by people of a wide variety of ages and backgrounds. Finally, because grocery stores typically function as important community spaces and anchor businesses, they help to catalyze further economic development in both urban and rural communities. Small entrepreneurial groceries may be better able to serve the specific food needs of their neighbors and respond quickly to changing demands. While the focus of our testimony has been primarily geared toward a particular community within the state of Nebraska, the issues that north Omaha faces are not any different than those of all underserved communities across the state. The threads of commonality around health disparities, unemployment, underemployment, and economic disinvestment are not constrained by geography or race. LB200 will provide an opportunity to increase communication and collaboration on food issues across the state as isolated communities work together to address this common concern. [LB200]

SENATOR CARLSON: Okay. Thank you for your testimony. Any questions, committee? Okay. Thank you. [LB200]

JULIE CARDA: Thank you. [LB200]

SENATOR CARLSON: Anyone else as a proponent? And is this the last testifier? Okay. [LB200]

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JIM STEFFEN: Mr. Chairman and members of the Agriculture Committee, my name is Jim Steffen, and that's spelled S-t-e-f-f-e-n. I am testifying as president of the Massena Corporation, which is a Nebraska family farm corporation that does business as Massena Farms. I support both the intent and the methods of Senator Council's bill. If the bill is passed to include a study of the limitations of food access, that's a quote from the bill, I suggest that the study focus on finding solutions to structural barriers that limit sustainable food production, processing, and financing in Nebraska and surrounding states. There are several studies going on along those lines. For example, and without going into any detail, my experience in natural and organic food production suggests that the USDA and the states have overemphasized direct sales by individual producers. If a goal of local food production is to bring down prices for healthy foods, then we make a strategic error by asking competing farmers, ranchers, and gardeners to finance, produce, process, and distribute their own products. I believe that Senator Council's proposed study should focus on building economies of scale in local and regional sustainable food production and processing. That concludes my testimony. I would be delighted to answer questions and provide more information at a later date. [LB200]

SENATOR CARLSON: Okay. Thank you. Do we have any questions? I'd like to ask...tell us a little more about Nebraska family farm corporation. [LB200]

JIM STEFFEN: Yeah, that's Massena Farms. That is a corporation that we've had since probably in the mid '70s. We actually own a farm also in Iowa. The corporation named after Massena, Iowa, actually. My father, Bob Steffen, was the farm manager at Boys' Town for many, many years. When he left Father Flanagan, he moved to this farm which is just west of Bennington and I believe it's in...I've forgotten. I asked senator...I've forgotten the name of our state senator. I recently... [LB200]

SENATOR CARLSON: Lautenbaugh, maybe. [LB200]

JIM STEFFEN: Yeah. Yeah. Anyway that corporation has produced organic grains for many, many years. My dad also sold vegetables in to the white tablecloth restaurants in Omaha for 25 years. I'm converting it now from grains to livestock and poultry. Too hilly, and we're going to go to grass based as much as we can. [LB200]

SENATOR CARLSON: Okay. Thank you. Any questions? Senator Brasch. [LB200]

SENATOR BRASCH: Thank you, Senator Carlson, Chairman. Thank you, Mr. Steffen. Now in organic farming, is that less expensive or more expensive to operate? [LB200]

JIM STEFFEN: It's economy of scale issue. There are very big farms that have low unit cost that are certified organic. There are small farms like our own little operation that become very expensive on a unit cost basis. So it's not the organic so much as the

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scale, and that's why I'm suggesting that we look at the barriers to scale in natural and organic production. [LB200]

SENATOR BRASCH: Thank you. [LB200]

SENATOR CARLSON: Okay. Any other questions? Okay. Thank you for your testimony. [LB200]

JIM STEFFEN: Thank you. [LB200]

SENATOR CARLSON: Anyone else...we're on proponents. Do we have any other proponents? Anybody in opposition to the bill? And anybody in a neutral capacity? Okay. Seeing none, Senator Council, you're recognized. [LB200]

SENATOR COUNCIL: Thank you, Chairman Carlson and thank you, members of the committee, for your time and attention in allowing those who wished to offer testimony on LB200 this opportunity. And I think you can hear from the testimony what caused me to introduce LB200. The collaborative efforts that are ongoing currently, particularly in the north Omaha and the metropolitan area, No More Empty Pots, their coalition, their alliance includes small farmers in and around Omaha, extending into southwest Iowa. And I heard Senator Carlson's comment about that, but with an objective of creating and maintaining a sustainable regional food system. You know, when I attend their meetings and I hear how little food now is, that we consume locally, is produced locally and the opportunity that exists for small farmers to fill that void. When I spoke on LB200 initially, when I asked and the Legislature graciously agreed to authorize the LR453 food desert study, I expressed my hope and intent that that study would identify whether we did have a problem with food deserts, and if so, provide us with an opportunity to see how we could increase urban agriculture. Senator Carlson, I think will confirm that one of the reasons that I was so happy to serve on the Agriculture Committee was that there was, I believe, an opportunity for us to increase an urban focus on agriculture, not only to address the provision of healthy locally produced foods, but also as an economic development tool. And Mr. Fripp is an ideal example of what I was hoping that we could see as a product of LB200 to provide financing to assist small urban farmers, young men in particular from north Omaha to see it as an entrepreneurial opportunity for them while serving a great need for the provision of healthy and affordable foods. We've seen through the No More Empty Pots coalition and others an increase in farmers' markets, community gardens. Last summer we had some young men who would ordinarily be classified as highly at-risk young men who were employed last summer working in community gardens. And so through LB200, the intent is to provide some financing opportunities to expand community gardens to assist in the development and expansion of farmer cooperatives. Senator Karpisek, and I wrote it down, your concern about funding competition. First, \$150,000 isn't going to go very far; and second, you weren't in the room when Ms. Artherton answered the question. And that being, if you're in a

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food desert and you're seeking to eliminate that condition, there is no competition because there is an absence of access to that high-quality, healthy, and affordable foods. So with that, with the understanding, colleagues, that the...I do have an amendment that changes the funding, the financing...and I will work with those who have testified. The issue of the study, there's been a concern as to whether or not we need...as initially introduced the bill provides that during the first year at least \$60,000...up to \$60,000 of the \$150,000 goes toward a study to be conducted by the university's public policy center. And in my meetings with all of those and others who have been intimately involved in this, I'm fairly convinced that we probably have enough data and we may not need to expend that kind of money on the study and perhaps need to refocus the study, as Mr. Steffen suggested, to look at economies of scale and how we can better improve operating margins for small farmers in and around urban areas as well as in our rural communities. And with that, if you have no other questions, I would just urge your favorable consideration when I get you all of the amendments, (laugh) favorable consideration, and advancement of LB200. [LB200]

SENATOR CARLSON: Okay. Thank you, Senator Council. Any questions of the committee? So you're pretty confident about the funding. [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR CARLSON: And then in your comments here in closing, I think it would be important if there's a switch from an expenditure on study that that be in such form that we all understand that. [LB200]

SENATOR COUNCIL: Absolutely. [LB200]

SENATOR CARLSON: And then we can go from there. Any other questions? [LB200]

SENATOR COUNCIL: Just...can I...one point. Mr. Fripp's aquaponics project development. Those of you recall that a year ago last month I had the privilege of traveling to Milwaukee to spend a day at one of the premier and internationally renowned urban agriculture programs. And they have an aquaponics program. I think it's similar to what Mr. Fripp is developing. But in that program, it's called Growing Power, they produce...and the day I was there, they had 4,000 tilapia and 4,000 lake perch. I think that's what it was. Some local Great Lakes perch that is like a hot item. But they farm raise these fish in these greenhouses that are smack dab in the middle of an urban residential area. And as the fish grow to consumption size, they are marketed to the local restaurants. And the food that is produced, the vegetables that are produced, are marketed to the Milwaukee public schools, which fits squarely into that farm-to-school initiative that the committee has discussed on previous occasions. So it's bringing all of these concepts together in kind of a unified fashion, and then providing some measure of financial assistance to enable these programs to grow and expand.

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[LB200]

SENATOR CARLSON: Okay. Senator Wallman. [LB200]

SENATOR WALLMAN: Thank you, Senator Council. Thank you, Chairman Carlson. Yeah, Senator, it's a...I was appreciated the fish story. Some small hog producers that went broke, some of them are using those hog pits to raise fish. And so it's also for rural America, so. [LB200]

SENATOR COUNCIL: Yeah, and that's what we've been discussing. I would encourage you, and I think I can speak on behalf of the No More Empty Pots coalition or alliance, to invite you to one of their meetings because to see the diversity of the participation. You know, we have small farmers, community garden advocates, and they're talking about a regional food system to go...I mean that covers the breadth from production, distribution, recycling and bringing it all together in a sustainable manner. So USDA is aware of what's going on in this coalition, and we hope that they will be supportive, although, you know, it was painful, I guess we'll find out Friday that the federal budget is providing for the elimination of funding to RC&Ds. So in case the committee didn't know that, that could affect our ability to carry out quite a few of the initiatives. [LB200]

SENATOR CARLSON: Okay. Thank you. Any further questions? Seeing none, thank you Senator Council. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR CARLSON: Thank those of you that came to testify today and with that we close the hearing on LB200. And Committee, I need five minutes of Executive Session. Moved and seconded that we go into Executive Session. [LB200]