2013 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2245

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2245
February 13, 2013
Job Number 18867

☐ Conference Committee

Committee Clerk Signature	Eva Liebelt

Explanation or reason for introduction of bill/resolution:

An Act to provide for gasoline marketing practices

Minutes:

Testimony Attached

Chairman Klein: Opened the hearing.

Senator Gary Lee: Introduced the bill. The bill insures a competitive wholesale market remains for the blended ethanol gasoline and the bill does require that the refinery or terminal supply non-oxygenated gasoline that is suitable for blending. The bill maintains the current ability for distributors and retailers to blend ethanol with gasoline at all levels of distribution including the store level using blender pumps.

Mike Rud, President of the North Dakota Petroleum Marketers Association: Written Testimony (1). Written Testimony Handed out; Tony Bernhardt, CEO/General Manager of Enerbase (2), Bernie Schafer, General Manager of the Farmers Union Oil Company in Wilton (3), Scott Svanina, Director, West Region Accounts Management CHS (4), Magellan Midstream Partners, L.P. (5).

Matt Bjornson, Bjornson Oil Company Inc.: Written Testimony (6). (9:25- 15:46)

Senator Andrist: Asked if they buy the ethanol separately from their gasoline. He thought blending meant you could put it to any level.

Matt: Said correct. While currently the ethanol needs to be blended to ten percent that is the current max for non-flex fueled vehicles. It is a pretty simple thing to do after the fact; they have been doing it for twenty years. If you have a ten thousand gallon load of ethanol blended gasoline, you will load nine thousand gallons of gas and will get a thousand gallons of ethanol. The gas that they pick up currently is pre-additives and is suitable with blending. It is additized in expectation of being blended with ten percent ethanol to meet all federal and brand standards. Ethanol is not shipped in pipelines; it shipped in trucks and by train. It is checked for quality at the plant for its purity. (16:00-17:45)

Senator Andrist: Said what they want to do is put the alcohol in instead of letting you do it.

Matt: Said it appears to them that they intend to eliminate their ability to pull anything but the blended product. (18:00-19:15)

Paul Mutch, Mutch Oil Company: Written Testimony (7).

Chairman Klein: Said what you are saying is that this bill doesn't change anything that you are currently doing. The bill will provide that we keep doing business the way we have in the past?

Paul: Said that is correct.

Senator Andrist: Said one more qualification, these terminals should still have the capability of giving you unblended gasoline. It isn't that they want to insert the alcohol at the refinery.

Paul: Said that is correct they will have the ability to do that.

Opposition

Ron Ness, North Dakota Petroleum Council: Said on behalf of the members that are the suppliers and the manufactures of fuel in North Dakota and also the terminal operators, they are in opposition of the bill. (24:10-30:00)

Chairman Klein: Said you are saying that because of the unintended consequences of what the federal government did. We are putting so much pressure on your folks to make sure they sell enough ethanol to not be in a position to have to go out and look for the RIN credits. That they are, across the country, squeezing more of those marketers who use to do this and now the marketers are saying we don't want this to come to North Dakota.

Ron: Said you are probably right in all regards there but you have to look at what you are going to do to our own manufacturers of ethanol when they have to sell it. Our refinery here we be penalized heavily if they don't have the volumes to meet the requirements because they don't get that volume when it goes out that gate unblended. To a refiner that RIN credit is extremely important.

John Traeger, VP, Northern Pipelines and Terminal, CHS Inc.: Written Testimony (8). (33:58-37:32)

Chairman Klein: Asked if they sell to their own stations, do they have folks pulling in there that are currently blending on their own.

John Trager: Said yes, there are people who come in and take what is finished grade gasoline and may choose later to blend it. They sell directly from their terminal to their own customers, Cenex branded customers and unbranded marketers. They also sell product to what they refer to as exchangers. (38:00-51:00)

John Berger, Director of Business Development for Tesoro Logistics in North Dakota: Written Testimony (9). (52:00-1:14)

Tom Lilja, Executive Director of the North Dakota Corn Growers: Said they are neutral on this issue, the state has made an investment in blender pumps. They have heard some comments about the renewable fuel standard; there was a study that was released this past spring that did show that because of the renewable fuel standard consumers are paying a dollar less per gallon of gasoline. We would otherwise have to be purchasing more of the product overseas. The renewable fuel standard is working and I don't appreciate it when there are comments against the renewable fuel standard. Some of what the problem is; when the 2007 energy bill was passed there was wording that came into that law. It stated that when we get up to fifteen billion gallons of ethanol, that's a cap on corn based ethanol and over that point it has to come from advanced ethanol places and cellulosic ethanol. The issue when we are talking about getting up to the blend wall, currently we are getting right to that ten percent of the nation's fuel supply. The corn growers are here to testify that the blender pump program is working and that the renewable fuel standard is working. There is likely to be a few modifications to that from Congress but if you took the renewable fuel standards away there would be some pretty serious shocks to the market. You wouldn't want to be taking any calls from your constituents explaining why gas prices have gone higher.

Chairman Klein: Closed the hearing.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2245
February 18, 2013
Job Number 19123

☐ Conference Committee

Committee Clerk Signature	Ess Liebelt

Explanation or reason for introduction of bill/resolution:

An Act to provide for gasoline marketing practices

Minutes:

Amendment

Chairman Klein: Opened the meeting. The amendment attempts to address the issue of an inferior product on the market if we pass this. That really isn't the crux of the issue, it still centers around who owns those credits. Amendment Attached (1).

Senator Laffen: Said this is a federal deal directing the bigger refineries. This went to the refineries because if they are going to control this ethanol deal it is hard to do at the retail level so they put it on the bigger refiners. This is dividing up who pays for what and the consumer will end up paying the bill either way. The wholesalers and retailers in this industry get along famously and I lean toward letting them work this out as they go through this, not passing legislation that says anyone has to do anything.

Chairman Klein: Asked if the committee wanted another day on this. The amendment talks to; if there is a claim it would not be the responsibility of the wholesaler.

Senator Sinner: Made a motion to adopt the amendment, 13.0663.02001.

Senator Laffen: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2245
February 19, 2013
Job Number 19205

☐ Conference Committee

Committee Clerk Signature	Eva Lietelt

Explanation or reason for introduction of bill/resolution:

An Act to provide for gasoline marketing practices

Minutes: Discussion and Vote

Chairman Klein: Opened the meeting for further discussion. He said he would like to keep it alive while the folks continue to work out whatever issues there may be. The people involved in this are known to work together on a lot of issues.

Senator Andrist: Said that it is a hard decision and can see the arguments on both sides. It is driven by an onerous federal rule according to the testimony they had. Those small jobbers have put in a sizable investment in and they aren't going to get the federal rule changed. Maybe the refiners could persuade someone at the federal level if they really worked at it.

Senator Unruh: Said it sounds great but doesn't think they will be changing the federal governments mind, especially not in this direction.

Senator Laffen: Said there were some questions on whether the below grade fuel and the quality of different ethanol's. Someone from the health department that deals with the ethanol quality is here and could he speak to the quality.

Carl Ness, Department of Health's Underground Storage Program: Said their program samples the quality control for what the consumer gets for gasoline products. He handed out statistics on the different violations that have occurred, Attachment (1). (4:00-5:30)

Senator Unruh: Said since a lot of the violations are related to labeling issues is that indicative to the fact that it is difficult to get the right blend?

Carl: Said no, the product met speck but the product was either put in the wrong tank and came out the wrong hose or they have the wrong label on the dispenser.

Senator Murphy: Motioned a do pass as amended. (Amendment adopted on February 18th)

Senator Sinner: Seconded the motion.

Roll Call Vote: Yes - 5 No - 2 Absent - 0

Floor Assignment: Senator Sinner

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2245
February 25, 2013
Job Number 19426

☐ Conference Committee

Committee Clerk Signature	Ira Lietzt

Explanation or reason for introduction of bill/resolution:

An Act to provide for gasoline marketing practices

Minutes:

Murphy Amendment and Vote

Chairman Klein: Called the meeting to order.

Senator Laffen: Made a motion to reconsider the actions taken on SB 2245.

Senator Sinner: Seconded the motion.

Chairman Klein: Committee we have a motion to reconsider actions whereby we passed SB 2245. All in favor of that motion say, "I". Opposed no, it was unanimous. We have the bill back on the table and we have to make one more motion to open this up.

Senator Murphy: Motion to readdress the committee's recommendation on 2245.

Senator Unruh: Seconded the motion.

Chairman Klein: We have a motion and a second. All in favor of that motion say, "I". Opposed no, motion passed.

Mike Rud, President of the North Dakota Petroleum Marketers Association: Gave information on the new amendment and said it gave some clarification on the language.

Senator Murphy: Moved to adopt the amendment, 13.0663.03002.

Senator Sinner: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Senator Sinner: Motioned a do pass as amended, as amended.

Senator Laffen: Seconded the motion.

Roll Call Vote: Yes - 6 No - 1 Absent - 0

Floor Assignment: Senator Sinner

13.0663.02001
Title.03000

Prepared by the Legislative Council staff for
Senator Klein
February 15, 2013

2/20/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2245

Page 1, after line 4, insert:

"1."

Page 1, line 13, replace "1." with "a."

Page 1, line 16, replace "2." with "b."

Page 1, line 20, replace "3." with "c."

Page 1, after line 21, insert:

"2. If a supplier supplies gasoline to a gasoline distributor under this section which is then blended, the gasoline distributor shall indemnify and hold harmless the supplier against any loss or damage, including costs, expenses, and reasonable attorney's fees arising out of a claim or judgment relating to or arising out of the blending of the gasoline."

Renumber accordingly

13.0663.02002
Title.04000

Prepared by the Legislative Council staff for
Senator Murphy
February 25, 2013

1/3
2-24-13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2245

Page 1, line 5, replace "in" with "from"

Page 1, line 5, after "removing" insert "nonoxygenated"

Page 1, line 6, replace "any octane from" with "all octanes available for blending in"

Page 1, line 6, after "refinery" insert "rack"

Page 1, line 6, replace "which inhibits" with "or inhibit"

Page 1, line 7, after "blender" insert ", or both"

Renumber accordingly

Date: 02/18/2013
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0663.02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Sinner Seconded By Senator Laffen

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 02/19/2013
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Murphy Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag		x			
Senator Unruh		x			

Total (Yes) 5 No

Absent 0

Floor Assignment Senator Sinner

If the vote is on an amendment, briefly indicate intent:

Date: 02//25/2013
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☒ Reconsider

Motion Made By Senator Laffen Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein			Senator Murphy		
Vice Chairman Laffen			Senator Sinner		
Senator Andrist					
Senator Sorvaag					
Senator Unruh					

Voice Vote Unanimous

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

If the vote is on an amendment, briefly indicate intent: **Reconsider Actions taken on 2245, whereby we passed SB2245**

Date: 02//25/2013
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Murphy Seconded By Senator Unruh

Senators	Yes	No	Senator	Yes	No
Chairman Klein			Senator Murphy		
Vice Chairman Laffen			Senator Sinner		
Senator Andrist					
Senator Sorvaag					
Senator Unruh					

Voice Vote Unanimous

Total (Yes) No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent: **Motion to readdress the committee's recommendation on SB 2245**

Date: 02//25/2013
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0663.03002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Murphy Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 02//25/2013
Roll Call Vote #: 4

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0663.03002

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Sinner Seconded By Senator Laffen

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh		x			

Total (Yes) 6 No

Absent 0

Floor Assignment Senator Sinner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2245: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2245 was placed on the Sixth order on the calendar.

Page 1, after line 4, insert:

"1."

Page 1, line 13, replace "1." with "a."

Page 1, line 16, replace "2." with "b."

Page 1, line 20, replace "3." with "c."

Page 1, after line 21, insert:

"2. If a supplier supplies gasoline to a gasoline distributor under this section which is then blended, the gasoline distributor shall indemnify and hold harmless the supplier against any loss or damage, including costs, expenses, and reasonable attorney's fees arising out of a claim or judgment relating to or arising out of the blending of the gasoline."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2245: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2245 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "in" with "from"

Page 1, line 5, after "removing" insert "nonoxygenated"

Page 1, line 6, replace "any octane from" with "all octanes available for blending in"

Page 1, line 6, after "refinery" insert "rack"

Page 1, line 6, replace "which inhibits" with "or inhibit"

Page 1, line 7, after "blender" insert ", or both"

Renumber accordingly

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

SB 2245

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2245
March 19, 2013
Job 20117

☐ Conference Committee

Lynell Thureson

Explanation or reason for introduction of bill/resolution:

Provide for gasoline marketing practices.

Minutes:

Attachments 1-10

Meeting called to order. Roll call was taken.

Hearing opened.

00:49 Senator Lee, **District 22**: Introduced bill. This bill intends to assure a competitive wholesale market remains for ethanol blended gasoline. The bill does require refinery or terminal to supply gasoline suitable for blending.

2:03 Mike Rud, President of the North Dakota Petroleum Marketers Association: Distributed handouts, attachments **1**, **2**, and **3**. Refer to written testimony, attachment **1**. During testimony, Mr. Rud referred to letters from refiners and suppliers, attachment **3**. We offered two amendments, and we do not believe much more can be done to improve this bill.

7:42 Representative Kasper: You mentioned maintaining competitive advantage and competition in the market. I thought gas sellers could sell their product at any price they wanted. How does this change that?

8:08 Mike Rud: If we have to take everything from within the gates, either from the refinery or suppliers at these terminals, we could be handcuffed in terms of what we are paying for product.

8:41 Representative Kasper: Can't the gas station owner buy gas from whomever he/she desires and looking for the best competitive price?

8:55 Mike Rud: A lot of guys are tied to a supplier through contracts or brands. For them, that is not an option.

9:20 Representative Kasper: If you are tied to a supplier, can you choose how much to buy? Or are you required to buy a minimum amount?

Mike Rud: If you have a contract with the supplier you are required to buy your entire product from that supplier.

10:01 Representative Kasper: So you have a contract, the supplier has 10 different types of gasoline that you could buy. Within your contract can you not choose to buy any one of those 10?

10:22 Mike Rud: You will buy what you need.

10:33 Representative Kasper: If you sign a contract, now you don't want to live up to the contract, you want us to solve the problem that you have a contract that you don't like?

10:54 Mike Rud: We have folks out there who don't have contracts who would still like to have this opportunity to be able to blend their own product outside the gates if they choose to do so.

11:33 Representative Kasper: In the contract you're prohibited from blending outside the gate?

11:42 Mike Rud: I'm not sure.

11:57 Representative Kreun: Does this also pertain to the ethanol supplier? If you're blending outside the gate do you have a contract with an ethanol supplier as well that requires the same type of contractual agreement?

12:23 Mike Rud: No. To my knowledge that doesn't exist.

12:32 Representative Kreun: So you have the ability to choose your ethanol source and the price.

Mike Rud: That's correct.

12:51 Representative Frantsvog: Is there a lack of communication between the parties?

Mike Rud: That is not correct. The lack of communication hasn't been because of the messages that we've tried to send to suppliers and refiners. The message is that we have been ignored; they believe they do not need to listen to us. We have exhausted all options.

13:38 Representative Frantsvog: You try to communicate with them and they're not communicating back?

Mike Rud: I have members who have spoken to them who have been told this is the way it is, you're going to have to deal with it. Referred to letters, attachment **3**. We've done all we can to try to solve this issue.

14:35 Chairman Keiser: Help us understand the current situation. Are there blending tanks at the marketer's level? Do they have blending tanks next to their fuel tanks?

Mike Rud: Some folks take the product back to their bulk plants and blend their own. I want to reiterate that we do not want to blend outside of the gates, but we have to keep that option available.

15:31 Chairman Keiser: The refinery can do the blending for you, provide the finished product, and put it in the truck. Or what this bill would allow is for you to go in and pick a load of fuel, take it out and blend it at your station or along the way to your station. What will be the pricing differential? How much will this save consumers and why?

Mike Rud: I have a marketer here who will address that.

16:24 Representative Ruby: Are there tax credits available to the companies who would blend it after they picked it up from the terminal?

16:38 Mike Rud: There are out there and available.

17:32 Representative Ruby: Could those be transferable if you can document that that fuel was blended?

Mike Rud: We have someone here who could speak to that.

17:50 Chairman Keiser: Did I hear you say that the marketers will give the rin back to the distributor?

Mike Rud: No I'm saying the marketer doesn't want the rin; they aren't actively seeking out the rin because it's a very complicated process to collect those rins and be audited. The issue is having the ability to blend outside the gates so we can control pricing.

Chairman Keiser: If rins became available through that process would they be willing to give them to the producer or sell them back to the producer?

Mike Rud: Defer.

18:49 Representative Kreun: Is there a requirement to sell a certain amount of ethanol nationally?

Mike Rud: I believe its 22 billion gallons by 2017.

19:15 Representative Kreun: If we have to sell so much ethanol, who is responsible for the sales of that ethanol?

Mike Rud: We are all involved in that but obviously the onus in terms of the tax situation regarding the rins falls on the refiner and supplier.

19:45 Representative Kasper: Why is the octane level being reduced?

Mike Rud: Because they can blend 10% ethanol to make 87% octane which is what needs to be sold here in ND.

20:27 Chairman Keiser: Is the refinery making the 84 because it's advantageous to them or are the marketers asking them to make an 84?

Mike Rud: The marketers would much rather prefer that we stuck with the 87. The refiners are looking at the 85/85.5. Referred to letters within attachment **3**.

21:36 Thomas Haahr, CEO and General Manager of Farmers Union Oil Company of Devils Lake: Refer to written testimony, attachment **10**. This bill guarantees our cooperative will be able to continue to find these products for our patrons without the fear of price increases due to having to buy from a one branded supplier.

23:24 Representative M. Nelson: How does blender pumps work?

Thomas Haahr: Each location is different.

24:05 Representative Vigesaa: Could you explain where and how you blend? What kind of cost savings do you see?

24:30 Thomas Haahr: We buy all of our gas from Cenex. Our E85 have the option to buy wherever it may be more reasonably priced.

24:56 Representative Vigesaa: Do you do any splash blending?

Thomas Haahr: We do no splash blending; it's all done at the dispenser.

25:17 Representative Ruby: When you buy the E85 is that percentage based off of 87 octanes or from a subgrade?

Thomas Haahr: We currently blend off from the 87 octane. Yes.

24:48 Chairman Keiser: Was there any discussion of some kind of bond required in order to do that in the Senate?

26:10 Thomas Haahr: Deferred.

26:28 Chairman Keiser: This is a very broad indemnification statement. What if the mistake is made in the production of gas, not the blending?

Thomas Haahr: It's always been the policy that it's been handled locally unless there is a definite flaw as it's purchased at the terminal.

Chairman Keiser: We maybe should put in language that this indemnification doesn't apply if the mistake was at the production level.

27:45 Representative Kreun: If you buy a truckload of ethanol and blend it, who gets the credit for the sale of that ethanol?

28:06 Thomas Haahr: We currently buy the product winless.

Representative Kreun: Aren't you buying it from the ethanol plant?

Thomas Haahr: Yes.

Representative Kreun: So no one gets the credit?

Thomas Haahr: The ethanol producer has the credits.

Representative Kreun: So they get to sell them later?

Chairman Keiser: We have people shaking their heads, both ways.

29:24 Representative Vigesaa: If you bought the product already blended at the terminal, vs. blending it yourself, how much do you save in your cost?

Thomas Haahr: That cost changes daily with the prices of the futures market and price of the ethanol.

29:59 Representative Vigesaa: If you are doing it that way, you're getting it cheaper by doing your own blending rather than buying it at the terminal?

Thomas Haahr: Yes.

30:13 Representative Amerman: If you were not able to continue to blend at your facility, what would become of the tanks and blending equipment you current use?

Thomas Haahr: We are looking at this daily. This might change the way we distribute.

31:38 Representative Kasper: The bill deals with gasoline suppliers and distributors. Are you also a gasoline distributor? What's the difference between a dealer and a distributor?

Thomas Haahr: We do have retail sites and are a bulk dealer. We also wholesale to other suppliers.

32:22 Representative Kasper: How many gasoline distributers are there in North Dakota?

Thomas Haahr: I do not know.

32:43 Chairman Keiser: There a concern among your group that if without this bill you can't get unblended gasoline. Can you explain why?

Thomas Haahr: With the downgrading of 87 octane to an 85.5, in the state of ND we are required to sell minimum of 87 octane. There are options.

Chairman Keiser: You will be able to blend with a 91?

Thomas Haahr: Not if we aren't able to blend.

Chairman Keiser: You cannot request that?

Thomas Haar: That is done at the terminal and is not necessarily done from your supplier. At this time, I think the plan is to blend it with ethanol to bring it to 87 octane.

34:20 Paul Mutch, Mutch Oil Company: Addressed previous question regarding indemnification. We all have commercial liability insurance. Most of the time, if there is a problem with the gasoline, we take care of it with the customer. That's the last thing as a gasoline retailer to have a disgruntled customer. However, this bill is to maintain a competitive marketplace for the introduction of ethanol into the motor fuel supply. With the recent supply announcements, it has become apparent that most suppliers and pipelines want to control this ethanol distribution. I do not believe the proposed distribution changes outweigh the need for competition in the wholesale marketplace. We can agree that the increased cost at the wholesale level will be passed on and born by the consumer. While preserving a competitive wholesale ethanol market, this bill does not handcuff any of us. How individuals price their products to us on a daily basis should determine if we buy their products or not, not because we have limited choices. We are willing to do it, capable of doing it, and have been doing it for years.

38:06 Representative Kasper: Why do you need this bill to be able to self-blend?

38:18 Paul Mutch: In order to be able to self-blend, to be able to get the at the rack the gasoline and also to be able to blend the ethanol.

38:39 Representative Kasper: If you can self-blend now, what has changed so that you will not be able to self-blend without this bill?

Paul Mutch: Without this we would need to buy all of our gasoline pre-blended at the rack and from our suppliers.

Representative Kasper: What makes you buy all of your gasoline pre-blended?

39:25 Paul Mutch: We keep a contract with our suppliers.

39:36 Representative Kasper: So you have signed a negotiated contract that you don't like and now you are saying you want the legislature to fix the contract that we signed? Are we supposed to be interfering into your contractual rights and relationships?

Paul Mutch: We just want to be able to buy our gasoline and then have the option of blending it, ethanol outside the rack.

40:10 Representative Kasper: The reason you can't do that is because you signed a contract that prohibits you from doing that?

Paul Mutch: I'm not aware.

Representative Kasper: Why can't you blend it yourself now?

Paul Mutch: I'm drawing a blank on that right now.

40:40 Chairman Keiser: We have had testimony that some blending is going on now by marketers. If that is going on now within this law in play, why do you need this law in the future to allow blending to continue? Are the refineries changing the rules? Why do we have this bill to protect something that is already occurring?

Paul Mutch: Defer.

41:39 Representative Ruby: Is the issue that if you did sign a contract with the terminal supplier, that the contract did not specify that you would be guaranteed to buy 87 octane? If that is the case, that you didn't have it locked in, is it rather than having a bill to guarantee blending, wouldn't it almost be a requirement that 87 octane be available in the state at any time?

Paul Mutch: If 87 were available that would be fine.

Representative Ruby: So that is the issue, you don't have it in your contract that they have to provide 87 octane gasoline for a guaranteed period of time?

Paul Mutch. Defer.

43:33 Matt Bjornson, partner in a petroleum distributorship in Cavalier, ND: Distributed written testimony, attachment **4**. This bill is not about contracts. It's about rents that refiners have to have to meet their obligations for the renewable fuel standard. They shouldn't be able to charge at will. A lot of product in the state is sold on a day-to-day non-contact basis. Refer to written testimony, attachment **4**. Elaborated on written testimony.

53:28 Representative Sukut: If you as a marketer got the RINS for the ethanol, does that mean the supplier would not get the RINS?

Matt Bjornson: The value of RINS has risen. It's a huge expense to refiners. If the market functions freely, the value of ethanol sold with rins and sold without rins should eventually reflect the value of the RINS.

55:41 Representative Kasper: You mentioned price gouging on ethanol pricing. What I am beginning to understand is that if you don't have this bill the only way you are going to be able to have blended gasoline with ethanol is you have to buy it at the refinery level. I'd like you to explain that there is gouging in the ethanol market.

Matt Bjornson: The word gouging is a severe term but if the blended price is 6 cents higher, that means that they are charging 60 cents more for their ethanol. The data is for the first nine months of last year. Many complaints have been made by distributors to suppliers about their ethanol price. They are in control of the RINS.

57:43 Representative Kasper: If you don't like the price of the blended ethanol at the refinery level you can buy the regular gas and go to the ethanol manufacturer and get a better price, still do blending the way you desire and save price costs for the consumer. Is that correct?

Matt Bjornson: We are a penny chasing business. We are fighting for the consumer and for our life too.

58:51 Representative Kasper: Without this bill you are going to be prohibited from getting your ethanol directly from the supplier?

Matt Bjornson: If they put sub-octane into the terminal, their choice, not ours, it's up to them. It costs less to make 85 and keeps the truck in the terminal.

Representative Kasper: So this is about RINS?

Matt Bjornson: It's about RINS and money.

1:00:06 Chairman Keiser: When you could go off site and buy it what did you have to pay relative to that 6 cents difference?

Matt Bjornson: We have a pricing person in the office.

Chairman Keiser: So in net in that case was 6 cents difference because of you doing it vs. them doing it?

Matt Bjornson: The average was eight tenths.

Chairman Keiser: Figuring in labor and everything else that was the difference.

Matt Bjornson: That was the gross difference.

Chairman Keiser: So the net may have been less?

Matt Bjornson: The only difference between the gross and net would be the cost. If it's their own truck the costs would be running the truck to be on the terminal or if it's a common carrier, if they charge us or not to go to the other terminal.

1:02:14 Mike Rud: This is very important to our industry. We are moving to a different area here with the 85 octane and we need this option to remain available.

1:02:37 Representative Vigesaa: Regarding the amount of ethanol that needs to be sold, per mandate by the Federal government, does that include what is sold at the retail location or is it just out of the terminal? What makes up the total that is necessary?

Mike Rud: I believe that is a number that has been handed down to the refineries, but we're all in it together.

Chairman Keiser: Do you have any idea of what a RIN costs if I want to purchase one today?

Mike Rud: The pricing is very volatile. Gave examples.

Opposition:

1:04:13 Ron Ness, North Dakota Petroleum Council: Introduced individuals who will be testifying. This will make ND an island. Distributed handout, attachment **5**. We stand in opposition of this bill. The game has changed for refiners by escalating renewable fuels mandate requiring more and more ethanol be sold in a declining gasoline consumption market. These refiners and suppliers are the ones that are required or mandated to provide those RINS. The price of the RIN has gone up. As a refiner you have to move the ethanol blend gasoline. This bill is about price and do we want to make ND a specialty island for fuels. Do we want to encourage more refining capacity? We wouldn't have the suppliers or refiners here. I am in opposition to this bill.

1:11:32 Representative Becker: If this bill did pass and the suppliers kept the ethanol at a competitive price, it sounds like the suppliers would keep all of their RINS because the retailers or distributors wouldn't decide to go elsewhere to the ethanol?

1:11:59 Ron Ness: The manufacturer of the product determines the slate and price that they are going to charge inside the refinery gate and what goes out of the refinery gate. The marketplace is going to require them to be competitive. What they pay for RINS is going to determine how their price fluctuates.

1:12:33 Representative Becker: Is it a true statement that if the suppliers want to keep their RINS and keep the blending inside the gate, all they need to do is ensure that their ethanol is competitively priced?

1:13:13 Ron Ness: There are two issues there. Nothing says they can't charge more for that unblended barrel. They're going to have to make those decisions. You want to keep your customers happy. They want to keep everything inside those gates.

1:14:24 Chairman Keiser: If the Tesoro refinery, if this bill was defeated, they could blend inside the gates in all cases, would that capacity not have to purchase any RINS?

1:14:48 Ron Ness: The ladder keeps climbing so they are falling short no matter what so every gallon you have to buy a RIN for.

1:15:11 Chairman Keiser: If the marketers can go outside the gates and purchase it for less and blend, and have a margin difference, then why don't the refineries say we have to be competitive with the outside markets. They can adjust their pricing.

Ron Ness: There are times where you can go out on the spot where there is surplus ethanol sitting at Great River Energy and certainly buy cheaper. The refiner or supplier might be higher because they have bought previously.

1:16:47 Representative Ruby: It sounds like there will no longer be an availability of pure 87 octane coming through the pipeline. Is that true?

Ron Ness: I think that will change. The 87 octane will be developed as an 84 or 85 base gasoline blended up to 87 octane.

1:17:57 Representative Ruby: Is there any way that with renewable fuels regulations that cooperative agreement between the refineries and the other marketers that if they can document if they have blended to a certain level? That the RIN can be documented so that they wouldn't have to buy the RINS?

Ron Ness: In the renewable fuel standard the onus is on the refiner and if it doesn't leave your terminal or rack blended you don't get that RIN. The RIN follows the gallon.

1:19:03 Representative Kreun: The suppliers are responsible for the sale of the ethanol over the total number of gallons sold nationally?

Ron Ness: Yes that is correct. The requirements are placed upon the refiners suppliers. They are given a quota to meet based upon their gallonage.

Representative Kreun: Are the marketers required to meet these same national limits of the sale of ethanol?

Ron Ness: They may get a RIN from selling that ethanol. I'm not sure. They are not mandated to sell.

Representative Kreun: If the marketer does not take the RIN, does the ethanol plant get the RIN?

Ron Ness: If you go out the refinery gate unblended, the RIN is lost to the refiner.

Representative Kreun: If it's lost the requirement is still there to pay the RIN on the total number of gallons sold in the nation.

Ron Ness: You are exactly right. The refiner still has to pay.

Representative Kreun: We are paying for the ethanol all the way around.

1:21:24 Representative Becker: A RIN is for what quantity of gas?

Ron Ness: A RIN is a renewable identification number associated with a gallon of ethanol blended gasoline.

1:21:43 Chairman Keiser: There is no way possible that we can work out a deal where the marketer fills up and has full intention of blending that they can assign the RIN value of that blend back to the refinery just to sign it?

Ron Ness: I'm not aware of that. We would support this bill turning into a resolution encouraging the Federal government to do something about this. The costs are going to be borne by the consumer.

Chairman Keiser: Right now it can't be done.

1:22:33 Representative Louser: If every RIN was taken, would they be worthless?

Ron Ness: If a refiner meets their quota there is no value or penalty.

1:23:52 Representative Ruby: If there was assistance that they were able to qualify for those and then didn't need them but worked out an agreement to show that yes, we qualify but we are blending them to help meet these numbers. Is there some way that the two parties would be able to work together to meet those requirements?

Ron Ness: The Federal government has made the refiner and the supplier the responsible entity so they have fewer stops to make.

1:25:42 John Traeger, VP of Northern Pipelines and Terminal, CHS Inc.: Distributed written testimony, attachment **6**. Elaborated on written testimony. This bill would negatively impact our refinery in our Minot terminal operations. Referred to the product quality issue and the concern of protecting our image of the brand. The EPA has within their regulations that if there is a problem with the gasoline product in terms of specification or meeting regulations, they will hold the brand responsible for those violations. This mandate causes us concern. The refinery is the obligated party. We are not being forced or mandated to create a sub-octane gasoline, but we are being pushed to blend ethanol more and more. As a result of that, refiners are moving to a sub-octane. We need the ability to control the product quality that leaves our facility and we are not supportive of a regulation that would require us to let an unspecified or unfinished gasoline leave our facility.

1:30:08 Representative Ruby: This bill would allow you to reduce the cost of a government regulation passed on to the consumer.

1:30:40 John Traeger: I would summarize it differently.

1:31:40 Representative Ruby: That requirement of using ethanol would cost you more which you would have to pass on, and then the consumer would have to pay that. You are trying to find a way to reduce the cost of the consumer of another government regulation.

John Traeger: That is not a comment I would make. It may be an outcome of this, but the refinery's goal and position in this is to sell a competitive product at the best price they can. When they look at the cost to producing along with the Federal mandate to blend, the sub octane decision comes out of that.

1:33:21 Representative Ruby: Without this mandate, why didn't you do it in the past that way?

John Traeger: We have not done it because we haven't had the distribution system to handle a lot of that.

1:34:00 Representative M. Nelson: Could a distributor still buy E10 from you and blend it to E15 and not meet those standards and you'd still be held liable by the EPA?

John Traeger: That certainly could occur.

1:34:52 Representative M. Nelson: What is the situation on E30? Does that also have the volatility problem that E15 would?

John Traeger: The blended grades of gasoline higher than 10% today are considered to be flex fuels.

1:35:50 Representative M. Nelson: What is the path of the RIN?

John Traeger: The gallon has to be blended into a fuel in order to generate the RIN. Regulations are very specific about how that RIN is extracted.

1:36:40 Chairman Keiser: The quality of that gas has to be maintained, correct?

1:37:29 John Traeger: I would agree. This bill would allow us to let the product out of the terminal gates that is not a finished gasoline.

Chairman Keiser: It is conceivable a product could be let out of the gate not altered in any way that could be affected.

John Traeger: That's correct.

Chairman Keiser: It's equally possible that you could make an adjustment and they could be affected.

1:38:27 Representative Vigesaa: Are all the refiners and suppliers given a percentage of ethanol that needs to go out of their gate?

John Traeger: The renewable fuel standard identifies the amount of ethanol that has to be blended based on your production values in terms of the total gallons of gasoline and diesel fuel you produce.

1:38:52 Representative Vigesaa: Do you know how much in percentage terms it's going to go up each year?

John Traeger: I don't have those numbers and can't answer that specifically. It is going up but I can't tell you the exact numbers.

Chairman Keiser: Would it be safe to say that the pressure on RINS and their availability will continue to increase?

John Traeger: Without question.

1:40:40 John Berger, Director of business development for Tesoro Logistics in North Dakota: Refer to written testimony, attachment **7**. Elaborated on some areas of written testimony. We value our customers very much. Their success is important to us and our consumers. Petroleum refiners and suppliers shouldn't be mandated to sell a product that doesn't meet fuel specifications.

1:49:59 Representative Ruby: The state of ND resisted mandating 10% blend for years, the whole country is going to get stuck with the 10%?

John Berger: Either gets stuck with the 10% blend or if it's more economical to sell the 87 considering the costs of the RINS, we'll to that.

Representative Ruby: There are times when ethanol is cheaper at the pump.

John Berger: The consumer has a choice.

1:51:30 Representative Ruby: You can't offer the option at the terminal for the distributors to drive out of there with fear of 87 octane?

John Berger: We offer that today.

Representative Ruby: And you will continue to do that?

John Berger: As far as the future the way the market is today we currently do offer it.

1:52:27 Chairman Keiser: There is no way that we can change this bill to say that you can blend offsite but you have to assign.

John Berger: Defer.

Chairman Keiser: It would seem like a reasonable solution to bring both parties where they would both benefit.

John Berger: The renewable fuel standard as currently exists the math can't work.

Chairman Keiser: When they took the subsidy for ethanol away, they had to generate some other alternative to require ethanol become part of the package, and you're it.

John Berger: The petroleum manufacturers get the ball.

1:54:07 Jon Godfread, Greater North Dakota Chamber of Commerce: Distributed written testimony, attachment **8**. We have members on both sides of this issue. This is a market issue cause. When those RINS walk out the door of a refinery, they are lost. Given the rules we are living under, the demand is staying steady, this mandates to have the RINS walk out the door would increase the cost of gasoline and would be bad for business. Provided related articles in a handout, attachment **9**.

1:56:44 Chairman Keiser: The reason they want to go offsite is to lower the price. How do we know what the net low price is?

Jon Godfread: The large suppliers, the refiners in our state are producing that subgrade gas. If they are losing those RINS every option of gas from the bottom to the top is going to feel that major price increase.

Chairman Keiser: Bill will be held, but we will take it up possibly this afternoon.

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2245
March 19, 2013, afternoon
Job 20167

☐ Conference Committee

Lynell Thueson

Explanation or reason for introduction of bill/resolution:

Provide for gasoline marketing practices.

Minutes:

Committee reconvened.

Chairman Keiser: What are the wishes of the committee on SB 2245?

00:45 Representative Beadle: I **move a Do Not pass**. Seconded by Representative Frantsvog.

Representative Beadle: I feel we are interjecting into a dispute that we don't necessarily have an obligation to be involved in.

Representative Ruby: I am torn about the view and information we received about the Federal mandate. If refineries don't blend to get more use of the ethanol then they're going to have to pay more or purchase credits. This will raise the cost to consumers.

4:15 Representative Frantsvog: Would hope to see the two parties work something out. If we defeat this bill, maybe that could happen.

Chairman Keiser: We did ask at the end of the hearing to have both parties do whatever they could to check on a compromise. The call was made to Washington. The answer is no, it can't be done. The transfer of the RIN credit is impossible.

6:42 Representative Sukut: The bill doesn't have a total solution to it. I hope the two parties can find a way to get together and make it work.

7:29 Representative Becker: I am going to vote do not pass but if the bill doesn't pass and there is documentation that the ethanol is being inflated because they have a captive market I would be very eager to in two years vote the other way.

8:52 Representative Amerman: If we pass the bill someone will say we just raised the price of gas. If we don't pass the bill, the other side will say we just raised the price of gas.

Do Not Pass Roll call vote: HB 2245

Yes = 11
No = 3
Absent = 1

Carrier: Representative Sukut

Date: 3-19-2013 afternoon

Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

House Industry, Business, and Labor Committee

Legislative Council Amendment Number ______

Action Taken: ☐ Do Pass ☑ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Beadle Seconded By Frantsvog

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman		✓
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla		✓
Rep. Rick Becker	✓		Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	ab				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigesaa		✓			

Total Yes 11 No 3

Absent 1

Floor Assignment Sukut

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2245, as reengrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2245 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2245

(1)

North Dakota Retail Association
ND Petroleum Marketers Association
North Dakota Propane Gas Association

LEGISLATIVE BULLETIN

Testimony-SB 2245

February 13, 2013-Senate IBL Committee

Senator Klein and Committee Members:

For the record, my name is Mike Rud. I'm the President of the North Dakota Petroleum Marketers Association. A livelihood which we all proudly represent and protect with great passion. On behalf of our 400 members large and small from across the State, I'm here today urging a DO PASS on SB 2245.

SB 2245 was proposed by NDPMA members after much thought and deliberation. Many of our members have listened over the past few years as their counterparts from across the nation shared stories of how their right to blend gasoline containing ethanol had been suddenly taken away from them by refiners and suppliers. In fact, marketers will share with you today letters received from several refiners and suppliers in our area mandating similar changes in 2013. We don't want to see that happen in North Dakota.

Opponents of this right to blend bill will have you believe SB 2245 is a mandate directed at refiners. That couldn't be farther from the truth. Opponents of this bill also want you to believe the Renewable Fuels Standard thresholds leave no alternative but for refiners and suppliers to blend all product. Not true either. In both of these cases, sound business decisions on the part of the refiners and suppliers will ensure all their RFS requirements can be met.

Senator Lee's explanation of the bill sums it up nicely: SB 2245 ensures a competitive wholesale market remains for ethanol blended gasoline. It maintains a competitive environment for the refiner/supplier, the petroleum marketer and the consumer.

1025 North 3rd Street • PO Box 1956 • Bismarck, ND 58502 • 701-223-3370 • Fax 701-223-5004
Web Address: ndretail.org • ndpetroleum.org • ndpropane.org

Over the years, in these Great Halls there has been much discussion about maintaining the free market system and allowing Capitalism to work. That's exactly what SB 2245 does. Again, I ask for a **DO PASS** recommendation on SB 2245.

(2)

Enerbase
Cooperative resources.

Testimony- SB 2245

February 13, 2013- Senate IBL Committee

Chairman Klein and Senate IBL Committee Members:

For the record, my name is Tony Bernhardt. I'm the CEO/General manager of Enerbase in Minot, ND. Enerbase sells over 40 Million gallons of petroleum in ND as a local cooperative.

We strive to offer the best service and petroleum offerings to the consumers.

I'm writing this letter asking for a DO PASS recommendation on SB 2245. Currently, the state of North Dakota requires all gas sold at retail contain a minimum octane level of 87 or higher.

As a retailer in Minot, North Dakota, we do not want to be forced to buy a formulated gas with ethanol at the rack. I don't agree that refineries and terminals should have the authority to send product through the pipeline at 85.5 so long as the refiner or terminal can "blend" it with 10% ethanol.

We as retailers strive to get the best price for our consumers at the rack and retail based on the cost of doing business. A right to blend bill like SB 2245 allows Enerbase to use its blender pumps, a several million dollar program incentivized by the State, to continue to give consumer's options at the pumps. This allows the retailer the option with existing equipment to "blend" like we have and to be able to make sound business buying decisions moving forward.

Enerbase buys ethanol from North Dakota ethanol plants and does not want to discontinue with that option. I've spoken to many other retailers who feel the same way. All of us combined have spent millions of dollars on upgrading to this technology and are blending with ethanol as needed.

Even if a retailer doesn't have blender pumps, SB 2245 still gives him the right to blend his own product in the most competitive manner possible.

Please do not take away an option from the retailers. Keep the free market system working and allow us to continue to blend our own product when we see fit.

Again, I urge a DO PASS recommendation on SB 2245. Thank you for your time and consideration.

Tony M. Bernhardt
Enerbase

(3)

FARMERS UNION OIL COMPANY
Phone (701) 734-6312
615 Minnie Avenue
P.O. Box 126
Wilton, North Dakota 58579-0126

Testimony – SB 2245

February 13, 2013 – Senate IBL Committee

Chairman Klein and Senate IBL Committee Members:

For the record, my name is Bernie Schafer. I am the General Manager of the Farmers Union Oil Co. in Wilton, ND.

In August 2010, Farmers Union Oil Co. in Wilton, ND, decided to install blender pumps. Utilizing roughly monies made available through the State's blender pump program as well as our Cooperative's finances, Farmer's Union in Wilton made about a $180,000 upgrade to our convenience store fuel distribution process. Not only did we have to install new pumps, but we had to reconfigure some tanks and petroleum lines running to the new dispensers.

We have been able to offer a variety of products to our customers. Our customers spoke to us by selecting the product that they wanted. Now the ability to offer the products that our customers have requested will be gone. We will have to actually plug one of the blender outlets so we can use the pumps we have. We would like to be able to blend the product that our customers have requested by their past purchases. We are successful by providing a product that our consumers want.

Also, we want to be on the same playing field as our competition, if all petroleum marketers can purchase the lower base octane gasoline, we as retailers can choose to do what best suits our local needs.

Thank you for your help and support,

Bernie Schafer
General Manager
701-734-6312
bjschafer@bektel.com

(4)

CHS

5500 Cenex Drive
Inver Grove Heights, MN
55077

Date: *January 3, 2013*

To: *Refined Fuels Customers*

Subject: *85.5 Octane Gasoline*

This letter is to inform you of changes CHS is making in its base product from its Laurel, MT refinery. These changes are necessary to address EPA gasoline regulations, the Renewable Fuel Standard and ongoing equipment changes at the Laurel, MT refinery. The refinery will soon be producing 85.5 octane gasoline as the base product. This change in production will result in product changes at our Montana and North Dakota terminals.

Why is this change necessary?

- Utilize ethanol to provide additional octane value and support rural communities
- Facilitate compliance with the new EPA gasoline regulation
- Facilitate compliance with the Federal Renewable Fuels Standard (RFS)
- Spring 2013 mild-hydrocracker installation further reduces higher octane components

What terminals and pipelines will be affected?

- All CHS terminals and pipelines that are fed from Laurel (see below for specific terminals)

What are some of the customer impacts of this change?

- Blender pump sites will need to have blend ratios evaluated
- Retail pump and other labeling will need to be evaluated and/or updated
- Underground storage tanks will need to be evaluated
- Dispenser filters will need to be ethanol compatible

When will these changes take place?

- Missoula – February 6, 2013
- Glendive & Minot – March, 2013

Terminal Specific Product Offerings

Missoula:

1. 85.5 Octane (No ethanol)
2. 87 Octane with 10% ethanol
3. 91 Octane (No ethanol)
4. 93 Octane with 10% ethanol

Glendive:

1. 85.5 Octane (No ethanol)
2. 87 Octane with 10% ethanol
3. 89 Octane with 10% ethanol
4. 91 Octane (No ethanol)
5. 93 Octane with 10% ethanol

(5)

MAGELLAN
MIDSTREAM PARTNERS, L.P.

December 14, 2012

Re: Sub-Octane Gasoline

Asset Area: Magellan's Central and South Refined Products Pipeline Systems

Via: Email Notification

Dear Customer:

The purpose of this letter is to provide you with Magellan's plans for converting our pipeline systems from conventional 87 octane base gasoline ("N-Grade") to 84 octane base gasoline ("Sub-Octane" or "V-Grade"). This letter will serve as the official communication for these changes, although several aspects may be modified at later dates as we continue to receive feedback.

Over the past two years, Magellan has fully evaluated the needs of our customers in the area of gasoline specifications related to ethanol blending, regulatory requirements, octane management, and efficient utilization of assets. Subsequent to this evaluation, we believe the best approach for the customer majority and for Magellan will be to have **one fungible regular conventional gasoline specification in our Central and South systems**. This change is specific to conventional gasoline markets. Magellan will continue to handle certain lower volatility conventional gasoline grades in specific markets during the summer volatility season (i.e. East Texas, Tulsa, and Kansas City). Magellan's Aurora, Colorado terminal will continue to handle V1-Grade (82 octane base gasoline). Further, we believe that it is best that we convert these systems at one time on or around **September 15, 2013**, as opposed to a phased-in conversion over a period of time.

Following is an outline describing our plan and the major factors considered during this decision process:

1. Customer Requests

   In 2011 Magellan surveyed our customer base related to the need or desire to convert to Sub-Octane. Based on that survey, and further discussions with customers, we elected to make no changes at that time. However, over the past several months, we have seen a much stronger interest by a majority of our customers in converting the system. Your input has been the primary driver for completing this evaluation and making this decision.

2. Sub-Octane Specifications

   Magellan intends to utilize product quality specifications for Sub-Octane gasoline that are fungible with other Gulf Coast originating pipeline systems, such as Colonial & Explorer. We expect to finalize these specifications by February 1, 2013.

(6)

Mr. Chairman and members of the committee,

My name is Matt Bjornson; I am a partner in a third generation petroleum distributorship based in Cavalier, ND. I would like to thank you for the opportunity to speak before you today and ask for your positive consideration of SB 2245.

SB 2245 helps insure a competitive, open, and free wholesale market for ethanol blended gasolines, as is the case now. SB 2245 also preserves the ability of Petroleum Marketers to purchase ethanol produced by North Dakota plants.

A fair question to ask is what has changed to require the introduction of this right to blend legislation. Recent announcements by two of the three major pipelines in the state give us great concern that the competitive marketplace for the ethanol portion of ethanol blended gasoline is at risk. Indications were given to marketers last fall that the third major supply point in the state is considering product slate changes as well. The wholesale market for petroleum in this state is already dominated by a few key players. It is our position that at least the ethanol portion of any ethanol blended gasoline should remain as competitive as possible. It is also our position that the ability for us to patronize our in state ethanol plants should be maintained. I can tell you from first hand experience that when a plants closes down as ADM did in Walhalla, they effect on the local economy and businesses is profound. This is a pro consumer bill. Competition and free markets at all levels of distribution is good.

In addition to protecting a distributors current ability to blend ethanol from different suppliers in tankers before delivery, this bill also protects those of us that have made considerable investments in retail blender pumps and associated infrastructure. At the encouragement of and with financial incentives from the North Dakota Department of Commerce, and the North Dakota Corn Growers, companies such as ours made big investments to facilitate the blending of ethanol at retail.

I would expect the only entities who will oppose this legislation will be those that wish for the free market in ethanol blending in North Dakota to go away. I would expect them to try and confuse the issue by talking about the federal renewable fuels standard and the need for obligated parties to have RINS to offset their introduction of carbon based fuels. A market system exists for the sale and purchase of RINS. We can go as in depth as you wish on those matters, but in the end the simple fact is that as it pertains to in tanker blending of ethanol, it is easier for us a distributers to blend ethanol from the same supplier as the gasoline. If the ethanol is purchased out of the rack it means having to wait a second time to load product, it means a second stop for our drivers, and it means more paperwork. The only reason to blend ethanol in a tanker from a different supplier or after the rack stems from the ethanol blended price being non competitive in the rack. For in tanker blending, currently the decision on whether we blend in the rack or out of the rack is in effect made by the supplier. If they choose to not have a competitive ethanol blended price, they are not promoting in rack purchasing. If they have to buy RINS at some point because of that, that was their decision when setting their prices, not ours.

As long as suppliers remain competitive on ethanol blended fuels into the future they should have no issues with this bill. For the consumer, in the end the more open, free, and transparent markets are at all levels of distribution, the better.

I would like to thank you for your time and welcome any questions the committee may have.

Testimony-SB 2245
February 13, 2013- Senate IBL Committee

Chairman Klein and members of the committee.

My name is Paul Mutch. I own and operate Mutch Oil Company, with offices in Larimore and Grand Forks. As a firm believer in a free and competitive marketplace, I am here today to encourage a **DO PASS** on SB 2245.

My observation over the years has been that much of the legislation this body considers is for the purpose of changing something. However, the purpose of SB 2245, the Right to Blend bill, is to simply **maintain** a competitive marketplace for the introduction of ethanol into the motor fuel supply.

With the recent supply announcements, it has become apparent that most suppliers **and** pipelines want to control ethanol distribution. While I understand some of the reasons behind these proposed distribution changes, I do not believe that those reasons outweigh the need for competition in the wholesale marketplace. I think that we can all agree that any increase in cost at the wholesale level will ultimately be passed on, and borne by the consumer.

While **preserving** a competitive wholesale ethanol market, this bill does not handcuff or stifle anyone. How individual suppliers **price** their products to us on a daily basis should determine if we buy from them or not – not because we have limited choices.

I know legislators often appreciate if a person testifying will just cut to the chase and tell them what a bill will do. Very simply, this Right to Blend bill will maintain an open, free, and competitive marketplace; it will maintain the ability of marketers to purchase ethanol from in-state plants; and it will support the investments made by our state government and private business in retail blending infrastructure.

For these reasons, I urge a **DO PASS on SB 2245**.

Thank you for your consideration.

(8)

CHS

5500 Cenex Drive
Inver Grove Heights, MN
55077

February 13, 2013

The Honorable Jerry Klein
Chairman, Senate Industry, Business and Labor Committee
North Dakota State Capitol
600 East Boulevard Avenue
Bismarck, ND 55805

Dear Chairman Klein and Members of the Committee:

On behalf of CHS Inc. and the more than 250 local cooperatives and 10,000 farmers and ranchers in North Dakota who own us, I am expressing opposition to SB2245. Our owners count on CHS as a supplier of energy, agricultural inputs, support services and market opportunities. This includes the tremendous amount of dependable, quality fuel vital to the success of farmers, ranchers and rural communities.

We believe passage of SB 2245 would negatively impact our refinery and Minot terminal operations and in turn, directly affect our agricultural and rural customers. One of our primary concerns regarding SB2245 is that it removed the ability of CHS to control the quality of our products. Examples of this include:

- E10 is made of a subgrade fuel which is not a finished fuel until 10 percent ethanol is added. This bill would allow a subgrade fuel to leave the loading rack without 10 percent ethanol. The ethanol would be added later by the jobber/wholesaler. This would unintentionally remove the ability of the terminal owner to control product quality.
- From May 1 through September 15, the volatility (RVP) of gasoline is regulated by the EPA. Gasoline containing between 9 percent and 10 percent ethanol receives a special waiver. Ethanol blending at our terminals is tightly controlled to ensure that our gasoline meets the EPA volatility requirement.
- Gasoline containing 15 percent (E15) ethanol is allowed to be sold in the market place. A special blend of gasoline is needed to ensure E15 meets all quality specification and EPA regulations. CHS does not sell gasoline at its terminal that, with the proposed addition of 15 percent ethanol, would meet the strict requirements. This Bill would allow a distributor to blend 15 percent ethanol. That is a blend that could harm vehicles.
- This bill would allow a jobber/wholesaler to purchase a subgrade gasoline and introduce it into commerce without adding the required 10 percent ethanol. At

times this could provide the jobber/wholesaler with an economic advantage while putting vehicles at risk.

We believe SB2245 creates two additional risks for a terminal operator and a refiner. These are:

- First, if an EPA gasoline fuel regulation is not met and that gasoline is sold under a specific brand, the brand is held liable. This regulation would remove our ability to control the final blend of gasoline. As a result, CHS would incur unacceptable EPA liability risk.
- Second, the renewable fuels standard (RFS) mandates that we at CHS, an obligated party as defined by the EPA, blend a specific amount of renewable fuel, including ethanol, into the fuels we produce at our refinery. This bill would interfere with our ability to meet our RFS mandated volume and increase our risk of non-compliance with the RFS rule and the EPA.

In summary, CHS has strict processes in place to ensure gasoline sold at our terminals meet or exceed quality requirements and EPA fuel regulations. This Bill would remove the ability of CHS to control the quality of the gasoline we produce, create undue risk for consumer vehicles and provide no value to the supply chain.

On behalf of CHS Inc, I appreciate the opportunity to convey our concerns about SB. 2245. Please don't hesitate to contact me if you have questions or need more information.

Sincerely,

John Traeger
VP, Northern Pipelines and Terminal
CHS Inc.

(9)

TESORO

To: ND Senate Industry, Business and Labor Committee

- Senator Jerry Klein
- Senator Lonnie J. Laffen
- Senator John Andrist
- Senator Philip M. Murphy
- Senator George B. Sinner
- Senator Ronald Sorvaag
- Senator Jessica K. Unruh

Subject: Tesoro Testimony in Opposition to SB 2245
9 am Wednesday, February 13, 2012

Good Morning, my name is John Berger, and I am currently the Director of Business Development for Tesoro Logistics in North Dakota. Prior to assuming this position, I was the Tesoro Mandan Refinery Manager for nearly five years, and was an employee at the Mandan Refinery for the past 26 years.

I am here to testify on behalf of Tesoro in opposition to SB 2245, and urge you to oppose this legislation.

Tesoro supplies transportation fuel to our customers in North Dakota from our refinery rack in Mandan, as well as from Nustar pipeline terminals in Jamestown and Moorhead that are supplied by pipeline from the Mandan Refinery. North Dakota is also supplied with transportation fuels by the Cenex pipeline from Montana, with terminals in Glendive and Minot and a pipeline to the Magellan terminal in West Fargo, the NuStar pipeline from the south feeding into the Jamestown south terminal, and the Magellan pipeline from the east which supplies terminals in both West Fargo and Grand Forks. All eight of these terminals would be impacted by this legislation.

Let me start by saying this is a very uncomfortable position for Tesoro to be in, as it puts us, as the fuel manufacturer, against a segment of our valued and respected customers. Their success is important to us, our consumers and the state.

However, Tesoro believes this legislation is an unnecessary intrusion into private enterprise. It does not address a compelling public interest, but rather creates a number of serious problems.

Our opposition to this legislation is framed around three main points.

1) First, our need to comply with the Federal Renewable Fuel Standard
2) Second, our need to fully ensure the quality of our finished product, and
3) Third, the commerce and physical impacts associated with meeting this legislation

Our first point of opposition is that this legislation would hinder Tesoro's, as well as other refiners, ability to comply with environmental regulations, namely the Federal Renewable Fuel Standard. We have all witnessed significant changes in the fuel quality of transportation fuels over the past two decades. Many of us remember when gasoline contained lead to enhance octane. Gasoline today is cleaner than it has ever been due to environmental regulations. As

Refiners, we have had to invest and change our fuel formulations to meet changing environmental regulations, including investments to control sulfur content, volatility and benzene content.

One such environmental regulation is the Federal Renewable Fuel Standard. US Congress passed two versions of the Federal Renewable Fuel Standard known as RFS1 and RFS2. These Standards were intended to reduce our dependence on foreign oil and reduce the environmental footprint of our fuels. RFS2 requires that fuel manufacturers, namely refiners, blend 36 billion gallons of alternative fuels, such as ethanol, advanced biofuel, and biodiesel into conventional fuel by the year 2022. EPA set the required volume for 2013 at 15.55 billion gallons, which represents approximately 9.63% of the total US consumption of transportation fuel.

This bill interferes with our ability to comply with RFS2. As the obligated party, refiners are responsible for compliance by physically blending alternative fuel into the fuels we manufacturer, or by purchasing a Renewable Identification Number (RIN) if a physical barrel is not blended. As the biofuel mandate approaches 10%, which it now has at 9.63%, suppliers will soon be required to blend virtually every gallon of gasoline with renewable fuel in order to comply with federal law.

With this bill, the distributor would own the RIN if they chose to blend the fuel with biofuel, but would have no obligation to sell that RIN back to the refiner. Likewise, if the distributor chose not to blend the fuel, the refiner would not even have a RIN to purchase for that unblended gasoline, but would be obligated to purchase one. It is important to remember that RFS2 does not include a mandate for jobbers and wholesalers; the burden is on the fuel manufacturers, specifically refiners like Tesoro.

Tesoro's second point of opposition relates to fuel quality, as this bill increases the possibility of fuel quality issues, including regulatory quality issues. There are strict requirements regarding the quality of gasoline. As the fuel manufacturer, we are responsible for the quality of fuel we manufacture, and are responsible for assuring its compliance to regulatory standards.

By forcing suppliers to make unfinished gasoline available for subsequent downstream blending, either with ethanol or with other finished products, the probability of mistakes increases, and our ability as the supplier of that fuel to control the final product quality decreases. Product racks such as the Tesoro rack in Mandan utilize computerized systems to blend ethanol and produce a fully finished gasoline. Off-site bulk blending, often called splash blending, is certainly a less sophisticated method much more subject to human error.

In addition, offsite blending could also result in under additizing of the fuel with detergent additives. Federal standards require that detergent additives be introduced with every gallon of fuel at specified minimum levels. Most ethanol blenders do not have the capability of introducing the detergent additive with the ethanol they blend into gasoline.

Our third point of opposition is around the commerce and physical impacts associated with this legislation. This proposal interferes with the right of trademark holders to be the sole producers of products sold under their trademark, and exposes refiners to liability if wholesalers commit blending errors. This bill authorizes marketers to produce ethanol-blended gasoline bearing that trademark without the supplier's consent or oversight, and therefore the Fuel Supplier is unable to control the final quality of the product bearing its trademark.

There are potential interstate commerce clause issues with this proposal, as this bill would require a different slate of products in North Dakota than from a neighboring state. This could unintentionally put in-state terminals at an economic disadvantage or advantage to out of state terminals.

Finally, this bill requires that suppliers like Tesoro offer all grades of clear gasoline for subsequent downstream blending. I can't speak for all the terminals in ND, but our direct refinery supplied terminals at Mandan, Jamestown and Moorhead are not set up to meet this requirement today. Piping, blending and/or computer modifications would be required, requiring capital and increases in operating expense.

In summary, Tesoro is proud to be in North Dakota, and we earn our license to operate by fully complying with every aspect of the law, and meeting our customer's quality needs each and every day. This bill makes that job more difficult, and I therefore urge your opposition to this legislation.

(1)

13.0663.02001
Title.

Prepared by the Legislative Council staff for
Senator Klein
February 15, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2245

Page 1, after line 4, insert:

"1."

Page 1, line 13, replace "1." with "a."

Page 1, line 16, replace "2." with "b."

Page 1, line 20, replace "3." with "c."

Page 1, after line 21, insert:

"2. If a supplier supplies gasoline to a gasoline distributor under this section which is then blended, the gasoline distributor shall indemnify and hold harmless the supplier against any loss or damage, including costs, expenses, and reasonable attorney's fees arising out of a claim or judgment relating to or arising out of the blending of the gasoline."

Renumber accordingly

(/)

Petroleum Products Testing Program

Retail Fuel Sampling Summary

Date Collected Between 01/01/2000 and 02/19/2013

Tuesday, February 19, 2013

Gasoline Samples:

Total	6,542
Violations	414
Violation Rate	6.33%

Total Violations		
1	50% Evaporated at:	
213	Alcohol in Gasoline	3.25%
219	Octane Number (Road)	3.34%

Diesel Samples:

Total	678
Violations	51
Violation Rate	7.52%

Total Violations	
51	90% Recovered at:

Facilities Sampled 768

Petroleum Products Testing Program

Retail Fuel Sampling Summary

Date Collected Between 01/01/2012 and 12/31/2012

Tuesday, February 19, 2013

Gasoline Samples:

Total	352
Violations	36
Violation Rate	10.23%

Total Violations		
30	Alcohol in Gasoline	8.52%
13	Octane Number (Road)	3.69%

Diesel Samples:

Total	27
Violations	0
Violation Rate	0.00%

Facilities Sampled 152

(1)

13.0663.03002
Title.

Prepared by the Legislative Council staff for
Senator Murphy
February 25, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2245

Page 1, line 5, replace "in" with "from"

Page 1, line 5, after "removing" insert "nonoxygenated"

Page 1, line 6, replace "any octane from" with "all octanes available for blending in"

Page 1, line 6, after "refinery" insert "rack"

Page 1, line 6, replace "which inhibits" with "or inhibit"

Page 1, line 7, after "blender" insert ", or both"

Renumber accordingly

NDPMA

ND PETROLEUM MARKETERS ASSOCIATION
1025 N 3rd Street • PO Box 1956 • Bismarck, ND 58502
Telephone 701-223-3370 • www.ndpetroleum.org • Fax 701-223-5004

Testimony-SB 2245

March , 2013-House IBL Committee

Chairman Keiser and Committee Members:

For the record, my name is Mike Rud. I'm the President of the North Dakota Petroleum Marketers Association. A livelihood which we all proudly represent and protect with great passion. On behalf of our 400 members large and small from across the State, I'm here today urging a **DO PASS on SB 2245.**

SB 2245 is a Pro free market bill. It is a Pro consumer bill. It is a Pro small business bill. It is a bill that has bipartisan support.

SB 2245 was proposed by NDPMA members after much thought and deliberation. Many of our members have listened over the past few years as their counterparts from across the nation shared stories of how their right to blend gasoline containing ethanol had been suddenly taken away from them by refiners and suppliers. In fact, I've handed out with my testimony, letters received from several refiners and suppliers in our area mandating similar changes for ND in 2013.

This bill was thoroughly vetted in the Senate IBL committee. Both sides were asked to work together to reach a compromise. NDPMA and the Co-op Managers of North Dakota offered two amendments to address concerns expressed by the opposition in testimony. In the end, neither of the amendments which were approved in committee were deemed pertinent by the opposition. The first amendment clarified that only those products offered by the refiner or terminal for in-terminal blending be offered for out-of-terminal blending.

The second amendment releases the refiners and terminals of any liability stemming from out-of-terminal blending.

SB 2245 passed the Senate by a 43-4 margin.

It's ironic the suppliers now are saying this issue should have been solved outside of the State's legislative Chambers. The petroleum distributors started attempting to resolve this issue outside this body nearly 8 months ago, but were basically ignored.

Opponents of this right to blend bill will have you believe SB 2245 is a mandate directed at refiners. That couldn't be farther from the truth. In fact, if you read the letters I attached with my testimony, the mandate is being handed down by refiners and suppliers by telling marketers where and how they are going to purchase future products.

Refiners and suppliers want you to believe the practice of blending ethanol outside the terminal gates will lead to substandard gas being sold at retail outlets. They are worried about their company credibility being tarnished. Many of you have business experience of your own. If you are like NDPMA members you have one essential business goal in mind: **Keep the customer happy so they keep coming**

back. No marketer is going to risk customers with poor blending practices! It doesn't make business sense.

In fact, the marketers believe so much in this adage that an amendment was offered a "hold harmless" clause to the bill. The marketers are willing to accept full responsibility for individual blending practices.

The legislative intent of SB 2245 has never been to mandate the sale of base gasoline that does not meet specifications. In fact, the idea of offering base gasolines that do not meet retail specs wasn't a government mandate. It was a decision made by the refiners, of which ND petroleum distributors were notified of after the fact.

Opponents of this bill also want you to believe the Renewable Fuels Standard thresholds leave no alternative but for refiners and suppliers to blend all product. Not true either. In both of these cases, sound business decisions on the part of the refiners and suppliers will ensure **most if not all** of their RFS requirements can be met.

Senator Lee's explanation of the bill sums it up nicely: SB 2245 ensures a competitive wholesale market remains for ethanol blended gasoline. It maintains a competitive environment for the refiner/supplier, the petroleum marketer and the consumer.

In summation, **As amended, SB 2245 addresses all the concerns of the opponents of the bill Except for one: Price competition. Something it appears the opposition to this bill wants to eliminate.**

Over the years, in these Great Halls there has been much discussion about maintaining the free market system and allowing Capitalism to work. **That's exactly what SB 2245 does!**

Again, I ask for a **DO PASS recommendation on SB 2245.**

②
SB 2245
3-19-2013

CHS

5500 Cenex Drive
Inver Grove Heights, MN
55077

Date: *January 3, 2013*

To: *Refined Fuels Customers*

Subject: *85.5 Octane Gasoline*

This letter is to inform you of changes CHS is making in its base product from its Laurel, MT refinery. These changes are necessary to address EPA gasoline regulations, the Renewable Fuel Standard and ongoing equipment changes at the Laurel, MT refinery. The refinery will soon be producing 85.5 octane gasoline as the base product. This change in production will result in product changes at our Montana and North Dakota terminals.

Why is this change necessary?

- Utilize ethanol to provide additional octane value and support rural communities
- Facilitate compliance with the new EPA gasoline regulation
- Facilitate compliance with the Federal Renewable Fuels Standard (RFS)
- Spring 2013 mild-hydrocracker installation further reduces higher octane components

What terminals and pipelines will be affected?

- All CHS terminals and pipelines that are fed from Laurel (see below for specific terminals)

What are some of the customer impacts of this change?

- Blender pump sites will need to have blend ratios evaluated
- Retail pump and other labeling will need to be evaluated and/or updated
- Underground storage tanks will need to be evaluated
- Dispenser filters will need to be ethanol compatible

When will these changes take place?

- Missoula – February 6, 2013
- Glendive & Minot – March, 2013

Terminal Specific Product Offerings

Missoula:
1. 85.5 Octane (No ethanol)
2. 87 Octane with 10% ethanol
3. 91 Octane (No ethanol)
4. 93 Octane with 10% ethanol

Glendive:
1. 85.5 Octane (No ethanol)
2. 87 Octane with 10% ethanol
3. 89 Octane with 10% ethanol
4. 91 Octane (No ethanol)
5. 93 Octane with 10% ethanol

MAGELLAN℠
MIDSTREAM PARTNERS, L.P.

December 14, 2012

Re: Sub-Octane Gasoline

Asset Area: Magellan's Central and South Refined Products Pipeline Systems

Via: Email Notification

Dear Customer:

The purpose of this letter is to provide you with Magellan's plans for converting our pipeline systems from conventional 87 octane base gasoline ("N-Grade") to 84 octane base gasoline ("Sub-Octane" or "V-Grade"). This letter will serve as the official communication for these changes, although several aspects may be modified at later dates as we continue to receive feedback.

Over the past two years, Magellan has fully evaluated the needs of our customers in the area of gasoline specifications related to ethanol blending, regulatory requirements, octane management, and efficient utilization of assets. Subsequent to this evaluation, we believe the best approach for the customer majority and for Magellan will be to have **one fungible regular conventional gasoline specification in our Central and South systems**. This change is specific to conventional gasoline markets. Magellan will continue to handle certain lower volatility conventional gasoline grades in specific markets during the summer volatility season (i.e. East Texas, Tulsa, and Kansas City). Magellan's Aurora, Colorado terminal will continue to handle V1-Grade (82 octane base gasoline). Further, we believe that it is best that we convert these systems at one time on or around **September 15, 2013**, as opposed to a phased-in conversion over a period of time.

Following is an outline describing our plan and the major factors considered during this decision process:

1. Customer Requests

   In 2011 Magellan surveyed our customer base related to the need or desire to convert to Sub-Octane. Based on that survey, and further discussions with customers, we elected to make no changes at that time. However, over the past several months, we have seen a much stronger interest by a majority of our customers in converting the system. Your input has been the primary driver for completing this evaluation and making this decision.

2. Sub-Octane Specifications

   Magellan intends to utilize product quality specifications for Sub-Octane gasoline that are fungible with other Gulf Coast originating pipeline systems, such as Colonial & Explorer. We expect to finalize these specifications by February 1, 2013.

SB2245 3-19-2013 (3)

YOUR PARTNER
FOR A
SUCCESSFUL
FUTURE

Dakota Plains Cooperative

Dakota Plains Cooperative
151 9th Avenue NW
Valley City ND 58072-2725
701-845-0812 • 800-288-7922
www.dakotaplains.coop

Testimony in support of SB 2245

My name is Ken Astrup. I currently serve as the general manager of Dakota Plains Cooperative in Valley City and am also serving as the President of the ND Co-op Manager's Association and Chairman of ND Petroleum Marketers. I urge you to support SB2245.

Contrary to what petroleum refiners may tell you, this bill will not place any additional burdens on them. What it will do is maintain the current right and ability that petroleum retailers in North Dakota have to blend ethanol with gasoline outside of the terminal gate or at retail stations utilizing blender pumps.

You may also have heard from refiners that if this bill passes, you will have retailers selling sub octane gasoline and they, the refiners, will be liable for any problems that creates. They bill addresses this concern and relieves the refiner for any liability, if that should happen.

I urge you to support SB2245 to ensure a competitive marketplace for the ethanol portion of gasoline and to protect the investment many retailers across the state have made in blender pumps.

Cooperatively,

Ken Astrup
Chairman, North Dakota Petroleum Marketers Association
President, Co-op Managers of North Dakota

Enerbase
Cooperative resources.

Testimony- SB 2245

March 19, 2013- Senate IBL Committee

Chairman Keiser and House IBL Committee Members:

For the record, my name is Tony Bernhardt. I'm the CEO/General manager of Enerbase in Minot, ND. Enerbase sells over 40 Million gallons of petroleum in ND as a local cooperative.

We strive to offer the best service and petroleum offerings to the consumers.

I'm writing this letter asking for a DO PASS recommendation on SB 2245. Currently, the state of North Dakota requires all gas sold at retail contain a minimum octane level of 87 or higher.

As a retailer in Minot, North Dakota, we do not want to be forced to buy a formulated gas with ethanol at the rack. I don't agree that refineries and terminals should have the authority to send product through the pipeline at 85.5 so long as the refiner or terminal can "blend" it with 10% ethanol.

We as retailers strive to get the best price for our consumers at the rack and retail based on the cost of doing business. A right to blend bill like SB 2245 allows Enerbase to use its blender pumps, a several million dollar program incentivized by the State, to continue to give consumer's options at the pumps. This allows the retailer the option with existing equipment to "blend" like we have and to be able to make sound business buying decisions moving forward.

Enerbase buys ethanol from North Dakota ethanol plants and does not want to discontinue with that option. I've spoken to many other retailers who feel the same way. All of us combined have spent millions of dollars on upgrading to this technology and are blending with ethanol as needed.

Even if a retailer doesn't have blender pumps, SB 2245 still gives him the right to blend his own product in the most competitive manner possible.

Please do not take away an option from the retailers. Keep the free market system working and allow us to continue to blend our own product when we see fit.

Again, I urge a DO PASS recommendation on SB 2245. Thank you for your time and consideration.

FARMERS UNION OIL COMPANY
Phone (701) 734-6312
615 Minnie Avenue
P.O. Box 126
Wilton, North Dakota 58579-0126

Testimony – SB 2245

March 19, 2013 – Senate IBL Committee

Chairman Keiser and House IBL Committee Members:

For the record, my name is Bernie Schafer. I am the General Manager of the Farmers Union Oil Co. in Wilton, ND.

In August 2010, Farmers Union Oil Co. in Wilton, ND, decided to install blender pumps. Utilizing roughly monies made available through the State's blender pump program as well as our Cooperative's finances, Farmer's Union in Wilton made about a $180,000 upgrade to our convenience store fuel distribution process. Not only did we have to install new pumps, but we had to reconfigure some tanks and petroleum lines running to the new dispensers.

We have been able to offer a variety of products to our customers. Our customers spoke to us by selecting the product that they wanted. Now the ability to offer the products that our customers have requested will be gone. We will have to actually plug one of the blender outlets so we can use the pumps we have. We would like to be able to blend the product that our customers have requested by their past purchases. We are successful by providing a product that our consumers want.

Also, we want to be on the same playing field as our competition, if all petroleum marketers can purchase the lower base octane gasoline, we as retailers can choose to do what best suits our local needs.

Thank you for your help and support,

Bernie Schafer
General Manager
701-734-6312
bjschafer@bektel.com

(4) SB 2245
3-19-2013

Mr. Chairman and members of the committee,

My name is Matt Bjornson; I am a partner in a third generation petroleum distributorship based in Cavalier, ND. I would like to thank you for the opportunity to speak before you today and ask for your positive consideration of SB 2245.

SB 2245 helps insure a competitive, open, and free wholesale market for ethanol blended gasolines, as is the case now. SB 2245 also preserves the ability of Petroleum Marketers such as myself to purchase ethanol produced by North Dakota plants.

In addition to protecting a distributors current ability to blend ethanol in tankers before delivery, this bill also protects those of us that have made considerable investments in retail blender pumps and associated infrastructure. At the encouragement of and with financial incentives from the North Dakota Department of Commerce, and the North Dakota Corn Growers, our small family business invested $91,153 in our Fargo store for alternative fuel infrastructure to facilitate on site blending. $91,153 is a boat load of money to a small family business such as ours.

I think it's important for you to know that petroleum distributors much prefer to blend at the rack. It's simpler, quicker, and less hassle. The only reason to blend in tanker after the rack stems from the ethanol blended price being non competitive in the rack. For in tanker blending, currently the decision on whether we blend in the rack or out of the rack is in effect made by the supplier. If they choose to not have a competitive ethanol blended price, they are driving distributors to blend out of the rack.

Opponents of this bill have tried to claim that this bill mandates them to sell sub octane product. This is simply not correct. As amended, SB is crystal clear that suppliers must only offer the same products for out of terminal blending that are available for in terminal blending. What those products will be is up to them. The opponents to this bill have tried to label this bill as a mandate. Nothing could be farther from the truth. In fact this bill prevents a mandate. The suppliers wish to mandate that all ethanol is bought from them, regardless of how much they want to charge for that ethanol. The decision to take away some of the octane currently in the gasoline that consumers buy in ND is not one that most retailers would ever support. As retailers we have to wonder that in addition to the lower cost of production of sub octane, that the idea of sub octane was part of a plan to force in terminal blending. Whatever their motivations, this bill does not force or mandate refiners and suppliers to do anything. Again the decision on whether distributors blend in the rack will be made by the suppliers by the price they choose for the ethanol portion of the gasoline.

Opponents to this bill have tried to claim that distributors must be incapable of properly blending ethanol. This is simply not correct. They have implied that 8.52 % of labeling violations last year are a basis for stopping out of terminal blending. The fact is that when you look at the state comments on those violations, the retailers contacted have repeatedly told the state that they have bill of ladings from terminals racks for the product in question. Over 30 years ago, ethanol was introduced into the fuel supply in ND by blending after the rack. It was distributors like my dad who worked with the then Dawn Enterprises (which became ADM in Walhalla) to get ethanol into the fuel supply, often times at odds with big oil. We did it properly then and continue to do so. Ethanol is highly miscible with gasoline; in line blending is not needed for proper mixing. The blending of ethanol into gasoline is not rocket science. Fuel grade ethanol is tested at the ethanol plants and is a generic product. No one's ethanol is more special than any one else's.

I am fortunate to be working in a family business started over 80 years ago by my Grandfather. We proudly put our name on our retail locations. The idea that we are somehow incapable of properly handling our products or that we don't have a big stake in our reputation is frankly insulting. If a customer has a problem they contact us and we take care of them. SB 2245 clearly indemnifies suppliers from any issues relating to out of the terminal blending.

To sum up any opposition, they are here to defeat this bill so that they can charge as they wish for the ethanol portion of blended product. If they are competitive into the future they should have no issues with this bill. Past history has shown us that not all suppliers have been competitive on the ethanol portion of blended gasoline. For the consumer, in the end the more open, free, and transparent markets are at all levels of distribution, the better.

I would like to thank you for your time and welcome any questions the committee may have.

5 SB 2245
3-19-2013

Valero Says US Northeast Retail Gasoline Prices Poised to Soar as Refiners Seek to Offset Skyrocketing RINS Costs

San Antonio, Texas, March 17, 2013 (EnergyNewsToday)- Valero says the US consumer soon may have to face sharply higher gasoline prices at the pump unless the US relents on its RINS standard. The first target likely will be the US Northeast since it is refinery deficient. A spokesman said, "The Northeast is long on demand, but short on gasoline."

Refiners can get credit for not meeting the yearly quota for blending renewables into gasoline by purchasing excess RINs (Renewable Identification Number) from those who have used more renewable fuel than was required of them. Anyone who is registered with the EPA can buy and sell RINs. These RINS credits are submitted annually to the EPA by petroleum refiners to prove they are in compliance with their required amount of renewable fuel, which contains corn-based ethanol.

RINS prices have skyrocketed presently to 75-80 cents-per-gallon, compared with 2c or cheaper a year ago. RINS recently even soared to well over $1.00 before correcting to the current level. Valero said RINS costs had devalued its company's stock by $2 billion in the last two weeks.

Gasoline demand continues to wane while renewable fuel standards keep increasing. The Renewable Fuel Association should couple gasoline demand with mandated ethanol levels. "Maybe it's time to do away with RFS (renewable fuel standard), "or at least have one that's reasonable," the official said.

Valero said a US refiner to cope with escalating RINS prices is facing the following options: A) Stop making renewable fuel; B) Export gasoline to any place, but the US, where there is no renewable gasoline standard. C) Pass the increased costs on to the consumer.

"We intend to pass RINS costs to the consumer not by borne by refiners," a Valero official said.

Valero also said it is getting ready to spin off its retail operation as the RINS costs are eating into margins.

The company has no intention of selling E15 gasoline, which contain 15% ethanol, versus the current 10% blend of ethanol. The company is however, selling E85, which is gasoline with 85% ethanol, for flex fuel vehicles.

RINs Become Mainstream Petroleum Supply Concern

What has been the single best performing fuel asset in 2013? Commodity traders who bought RBOB futures did well through mid-February, and equity investors in Midcontinent refiners have plenty to brag about also. However, those investments pale in comparison when viewed side by side with the explosive gains for RINs -- the Renewable Identification Numbers that are the currency for ethanol blending and compliance.

Ethanol RINs, necessary to hit the threshold set by the Environmental Protection Agency (EPA) as part of the renewable fuels standard (RFS) have occasionally popped up as a concern for refiners, importers and other obligated parties, but through 2010-2012, they never fetched a price greater than 8.5cts per RIN. They sold for as little as 0.25cts/gal as recently as 2011. But all of that has changed drastically this year, with 2013 RINs selling for as much as 50- 51cts/gal this week.

On the first business day of 2013, ethanol RINs sold for about 7cts/gal. An exclusive OPIS story on Jan. 8, 2013 detailed the prediction of noted oil analyst and renewable fuels expert Andy Lipow of Lipow Oil Associates. He predicted that a shortage of RINs might loom for 2014, and noted that some 1.7 billion of "banked" RINs could be consumed this year thanks to the RFS requirement of 13.8 billion gallons of biofuels (ethanol) this year, and the 14.4 billion gal threshold in 2014.

Ethanol RINs sold for an average 7.63cts/gal on the day the story hit the wires.
Since then, they have gained another 40-43cts/gal. Observers say that some obligated parties have similar deficit concerns, and to some extent, those expectations were confirmed in the projected shortfalls. If indeed, suppliers may run out of RINs in 2014, there is no particular incentive to shed the credits this year, since they can be carried forward.

Until recently, RINs have had only a small impact on the price of gasoline. But now, they are casting a shadow over supply. One refiner that was all set to move some gasoline blendstock to Florida reportedly moved the cargo offshore, where the sale would not be impacted by the necessity to purchase some RINs. At 50cts/gal, a refiner or importer who moves gasoline downstream but does not do the E10 blending, faces 5cts/gal in additional expense tied to the RINs cost.
Last year, the cost of RINs might have added only 0.15-0.5cts/gal to the price of finished motor fuel blends.

U.S. refiners and traders are already motivated to move gasoline offshore thanks to much higher shipping costs for stateside port-to-port movement. The additional cost of RINs provides even more incentive to export motor fuel. The Energy Information Administration just published December export figures, and U.S. refiners and traders moved a record 745,000 b/d of finished gasoline or gasoline blendstock offshore. It is far too soon to say that some of those barrels were motivated by RIN costs, but that could definitely the case in subsequent months.

Beyond exports, the value of RINs could prove to be a contrarian bet for anyone that believes the U.S. economy is headed for an economic debacle or a 2013 recession. RFS numbers do not account for demand destruction, so should gasoline consumption fall behind 2012, the value of RINs could increase further. There is no requirement that a buyer of seller of RINs be a stakeholder in the fuel business.

There has been a tendency for RINs to peak early in a given year, since suppliers are less certain of obligations, how many RINs might have been carried forward, etc. But this year's spike appears different. Lipow believes that the motivation clearly seems driven by a clear concern; namely, there may not be enough blending to meet the conventional biofuels mandate, and RINs are required to make up the difference.

The RINs issue could make the end of 2013 particularly interesting. Normally, December is a very weak month for gasoline prices and presents very comfortable supply. There are some worries that refiners or importers might opt to avoid selling gasoline rather than buy RINs at exorbitant numbers if a deficit in the RINs bank is perceived.

Note: If you had the elegant timing to buy RINs of a 2013 "vintage" last September, you would have seen a more than tenfold profit. On Sept. 27, 2012 a batch of 1 million 2013 RINs cost $47,500. This afternoon, those million RINs would be worth close to $500,000.

--Tom Kloza, tkloza@opisnet.com

CHS

(6) SB2245
3-19-2013

5500 Cenex Drive
Inver Grove Heights, MN
55077

March 13, 2013

The Honorable George Keiser
Chairman, House Industry, Business and Labor Committee
North Dakota State Capitol
600 East Boulevard Avenue
Bismarck, ND 55805

Dear Chairman Keiser and Members of the Committee:

On behalf of CHS Inc. and the more than 250 local cooperatives and 10,000 farmers and ranchers in North Dakota who own us, I am expressing opposition to SB2245. Our owners count on CHS as a supplier of energy, agricultural inputs, support services and market opportunities. This includes the tremendous amount of dependable, quality fuel vital to the success of farmers, ranchers and rural communities.

We believe passage of SB 2245 would negatively impact our refinery and Minot terminal operations and in turn, directly affect our agricultural and rural customers. One of our primary concerns regarding SB2245 is that it removed the ability of CHS to control the quality of our products. Examples of this include:

- E10 is made of a subgrade fuel which is not a finished fuel until 10 percent ethanol is added. This bill would allow a subgrade fuel to leave the loading rack without 10 percent ethanol. The ethanol would be added later by the jobber/wholesaler. This would unintentionally remove the ability of the terminal owner to control product quality.
- From May 1 through September 15, the volatility (RVP) of gasoline is regulated by the EPA. Gasoline containing between 9 percent and 10 percent ethanol receives a special waiver. Ethanol blending at our terminals is tightly controlled to ensure that our gasoline meets the EPA volatility requirement.
- Gasoline containing 15 percent (E15) ethanol is allowed to be sold in the market place. A special blend of gasoline is needed to ensure E15 meets all quality specification and EPA regulations. CHS does not sell gasoline at its terminal that, with the proposed addition of 15 percent ethanol, would meet the strict requirements. This Bill would allow a distributor to blend 15 percent ethanol. That is a blend that could harm vehicles.
- This bill would allow a jobber/wholesaler to purchase a subgrade gasoline and introduce it into commerce without adding the required 10 percent ethanol. At

times this could provide the jobber/wholesaler with an economic advantage while putting vehicles at risk.

We believe SB2245 creates two additional risks for a terminal operator and a refiner. These are:

- First, if an EPA gasoline fuel regulation is not met and that gasoline is sold under a specific brand, the brand is held liable. This regulation would remove our ability to control the final blend of gasoline. As a result, CHS would incur unacceptable EPA liability risk.
- Second, the renewable fuels standard (RFS) mandates that we at CHS, an obligated party as defined by the EPA, blend a specific amount of renewable fuel, including ethanol, into the fuels we produce at our refinery. This bill would interfere with our ability to meet our RFS mandated volume and increase our risk of non-compliance with the RFS rule and the EPA.

In summary, CHS has strict processes in place to ensure gasoline sold at our terminals meet or exceed quality requirements and EPA fuel regulations. This Bill would remove the ability of CHS to control the quality of the gasoline we produce, create undue risk for consumer vehicles and provide no value to the supply chain.

On behalf of CHS Inc, I appreciate the opportunity to convey our concerns about SB. 2245. Please don't hesitate to contact me if you have questions or need more information.

Sincerely,

John Traeger
VP, Northern Pipelines and Terminal
CHS Inc.

c: Jim Erickson
John Engelen
Ron Ness

7 SB2245
3-19-13

TESORO

To: ND House Industry, Business and Labor Committee

Representative George J. Keiser
Representative Bill Amerman
Representative Rick Becker
Representative Robert Frantsvog
Representative Nancy Johnson
Representative Curtiss Kreun
Representative Marvin E. Nelson
Representative Don Vigesaa
Representative Gary R. Sukut
Representative Thomas Beadle
Representative Joshua A. Boschee
Representative Ed Gruchalla
Representative Jim Kasper
Representative Scott Louser
Representative Dan Ruby

Subject: Tesoro Testimony in Opposition to SB 2245
Tuesday, March 19, 2013 8 am

Good Morning, my name is John Berger, and I am currently the Director of Business Development for Tesoro Logistics in North Dakota. Prior to assuming this position, I was an employee at the Mandan Refinery for the past 26 years, including the last five as Tesoro Mandan Refinery Manager.

Let me start by saying this is an uncomfortable position for Tesoro to be in, as it pits us, as the fuel manufacturer, against a segment of our valued and respected customers. Their success is important to us, our consumers and the state.

However, I am here today to testify in opposition to SB 2245. Petroleum suppliers and refiners should not be mandated to sell a product that does not meet fuel specifications. We should not be mandated to a position where we are reliant on activities outside of our control to protect our quality reputation and our regulatory responsibilities. We should not be mandated on what products to sell. And a mandate most certainly should not make compliance with federal regulations, such as the Renewable Fuel Standard, more difficult. This bill does all of these, and I therefore urge your opposition to this legislation.

Our opposition to this legislation is framed around three main points.

1) First, Tesoro believes this legislation is an unnecessary intrusion into private enterprise and does not address any extraordinary or compelling public interest. This bill is a mandate requiring us to make products available that we do not currently offer today. It raises concerns to us as the fuels manufacturer about the quality of the final blend that is supplied to the public.

2) Secondly, there are negative supply, trademark and commerce aspects associated with meeting this legislation.

3) Finally, I will discuss our need to comply with the Federal Renewable Fuel Standard, and how this bill makes that compliance more difficult and costly for suppliers within the state of North Dakota.

Let me begin on our first point of opposition, relating to fuel quality and specifications. There are strict requirements regarding the quality of gasoline. As the fuel manufacturer, we are responsible for the quality of fuel we manufacture, and are responsible for assuring the fuels we manufacturer are in compliance with regulatory standards. This bill forces suppliers to make all grades of gasoline, including unfinished gasoline - commonly referred to as subgrade - that does not meet legal specifications, available for subsequent downstream blending with ethanol. We have manufactured subgrade in ND for 20 years, and have never sold, or been forced to sell this product. This unfinished product is not sold by Tesoro in any other states where we do business, including the neighboring state of Minnesota which has an ethanol mandate. Please think about this not just from a refining standpoint, but from a manufacturing standpoint for any product. Mandating the supply of unfinished goods that do not meet legal specifications is not something this legislative body should even be considering.

Product racks such as the Tesoro rack in Mandan, and the Nustar racks in Jamestown and Moorhead that we supply, utilize computerized systems to blend ethanol and produce finished gasoline. It is the preferred method of ethanol addition according to the Renewable Fuels Association. Off-site bulk blending, often called splash blending, is a less sophisticated method, and per the Renewable Fuels Association is much more subject to human error. The mandated sale of subgrade would make off terminal blending with ethanol a critical component to fuel quality, yet the supplier of that fuel would have no control over this activity. For this reason, this bill increases the possibility of fuel quality and regulatory issues, including octane, additive dosage rates and Reid Vapor Pressure (RVP) compliance.

In 2012, 8.5% of the samples tested by the ND Department of Health under their petroleum testing program for alcohol content were in violation. This is correctly described by the NDDH as a labeling issue, and not a quality issue. Because all of the gasoline we market from Tesoro at our terminals today meets ASTM specifications for octane, even if the ethanol level is well under 10% due to an issue with downstream ethanol blending, the fuel will still comply with minimum legal octane ratings. This may <u>not</u> be case going forward if this bill becomes law.

Moving to our second point of opposition, there are negative supply, trademark and commerce aspects associated with meeting this legislation.

This bill requires suppliers like Tesoro offer all grades of gasoline for subsequent downstream blending. This proposal appears to be in conflict with our existing contracts. The proposal interferes with the right of trademark holders to be the sole producers of products sold under their trademark and exposes refiners to liability if wholesalers commit blending errors. The Fuel Supplier will be unable to control the quality of the products bearing its trademark because this bill appears to allow marketers to produce ethanol-blended gasoline bearing that trademark without the supplier's consent or oversight.

There are also potential interstate commerce clause issues with this proposal, as this bill would require a different slate of products in North Dakota than from a neighboring state. This could unintentionally put in-state terminals at an economic disadvantage or advantage to out of state terminals.

Our final point of opposition is that this legislation would hinder Tesoro's, as well as other refiners, ability to comply with environmental regulations, namely the Federal Renewable Fuel Standard. We have all witnessed significant changes in the fuel quality of transportation fuels over the past two decades. Many of us remember when gasoline contained lead to enhance octane. Gasoline today is cleaner than it has ever been due to environmental regulations. As Refiners, we have had to invest and change our fuel formulations to meet changing environmental regulations, including investments to control sulfur content, volatility and benzene content.

One such environmental regulation is the Federal Renewable Fuel Standard. US Congress passed two versions of the Federal Renewable Fuel Standard known as RFS1 and RFS2. These Standards were intended to reduce our dependence on foreign oil and reduce the environmental footprint of our fuels. RFS2 requires that fuel manufacturers, namely refiners, blend 36 billion gallons of alternative fuels, such as ethanol, advanced biofuel, and biodiesel into conventional fuel by the year 2022. EPA set the required volume for 2013 at 15.55 billion gallons, which represents approximately 9.63% of the total US consumption of transportation fuel.

This bill interferes with our ability to comply with RFS2. As the obligated party, refiners are responsible for compliance by physically blending alternative fuel into the fuels we manufacturer, or by purchasing a Renewable Identification Number (RIN) if a physical barrel is not blended. As the biofuel mandate approaches 10%, which it now has at 9.63%, suppliers will soon be required to blend virtually every gallon of gasoline with renewable fuel in order to comply with federal law.

A distributor who blends fuel with ethanol downstream of a terminal is not obligated to generate a RIN due to that activity. If they do choose to generate and claim the RIN, they have no obligation to provide that RIN directly back to the supplier or refiner. Likewise, if the distributor chooses not to blend the fuel with ethanol, we are assured that no RIN is generated, but the producer is obligated to purchase one. It is important to remember that RFS2 does not include a mandate for jobbers and wholesalers; the burden is on the fuel manufacturers, specifically refiners like Tesoro.

According a Wall Street Journal article dated March 12, 2013, the value of RINS has surged from as little as 0.25 cpg in 2011, to 7 cpg at the end of 2012, to as high as $1.00 per gallon in the last couple weeks. This is a real cost that is impacting suppliers such as Tesoro. A mandate to provide gasoline for subsequent downstream blending will put more and more pressure on that RINS market, and increase the cost of supplying the ND market.

In summary, Tesoro is proud to be in North Dakota, and we earn our license to operate by fully complying with every aspect of the law, and meeting our customer's quality needs each and every day. This bill would make that job more difficult, and Tesoro respectfully requests you oppose this bill.

8 SB 2245
3-19-2013

GNDC
Greater North Dakota Chamber

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
SB 2245
March 19, 2013

Mr. Chairman and members of the committee, my name is Jon Godfread and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. Greater North Dakota Chamber is working on behalf of our more than 1,100 members to build the strongest business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in opposition to SB 2245.

As an organization we are opposed to energy mandates. This bill comes in response to the renewable fuels mandate sent down by the federal government. We believe that mandate has made it more difficult for business in our country and is a direct insertion of the federal government into the marketplace. This bill would only exacerbate ever increasing problems petroleum refiners are facing given life under the Renewable Fuels Standard.

We believe SB 2245 would cause an increase in the cost of gasoline in our state, reduce the number of the suppliers of gasoline to our state, and increase the cost of doing business in the state of North Dakota. I have provided two articles (*Energy News* and *Wall Street Journal*) that outline what others have discussed today to give you more background on just how this bill can impact the price of gas in North Dakota. I encourage you to review these articles as more background to this issue. As you will see, these mandates have increased the cost of gasoline to the consumer by 5-10 cents a gallon. SB 2245 will only make this increase worse.

Some may make this bill out to be the big suppliers vs. the marketers. However what we, as the Greater North Dakota Chamber, are concerned about is the impact this will have on consumers. Higher costs for fuel mean higher costs to do business, which inevitably means it is more difficult to do business in this state. This issue isn't about refiners vs. marketers. This is about an artificial market that has been created at the federal level, which has created the rules we must all live under. In an absolute free market, this bill would be about lowering the cost of petroleum, however, under the current federal system we feel SB 2245 will actually increase the cost of petroleum in our state. This issue is about consumers and the businesses of our state and, put simply, this is bad for business.

I would urge this committee to give a Do Not Pass Recommendation to SB 2245 and would be happy to answer any questions.

Champions for Bus ess

PO Box 2639
Bismarck, ND 58502

P: 701-222-0929
F: 701-222-1611

www.ndchamber.com

9 SB 2245
3-19-2013

GNDC

Greater North Dakota Chamber

Valero Says US Northeast Retail Gasoline Prices Poised to Soar as Refiners Seek to Offset Skyrocketing RINS Costs

San Antonio, Texas, March 17, 2013 (EnergyNewsToday)- Valero says the US consumer soon may have to face sharply higher gasoline prices at the pump unless the US relents on its RINS standard. The first target likely will be the US Northeast since it is refinery deficient. A spokesman said, "The Northeast is long on demand, but short on gasoline."

Refiners can get credit for not meeting the yearly quota for blending renewables into gasoline by purchasing excess RINs (Renewable Identification Number) from those who have used more renewable fuel than was required of them. Anyone who is registered with the EPA can buy and sell RINs. These RINS credits are submitted annually to the EPA by petroleum refiners to prove they are in compliance with their required amount of renewable fuel, which contains corn-based ethanol.

RINS prices have skyrocketed presently to 75-80 cents-per-gallon, compared with 2c or cheaper a year ago. RINS recently even soared to well over $1.00 before correcting to the current level. Valero said RINS costs had devalued its company's stock by $2 billion in the last two weeks.

Gasoline demand continues to wane while renewable fuel standards keep increasing. The Renewable Fuel Association should couple gasoline demand with mandated ethanol levels. "Maybe it's time to do away with RFS (renewable fuel standard), "or at least have one that's reasonable," the official said.

Valero said a US refiner to cope with escalating RINS prices is facing the following options: A) Stop making renewable fuel; B) Export gasoline to any place, but the US, where there is no renewable gasoline standard. C) Pass the increased costs on to the consumer.

"We intend to pass RINS costs to the consumer not by borne by refiners," a Valero official said.

Valero also said it is getting ready to spin off its retail operation as the RINS costs are eating into margins.

The company has no intention of selling E15 gasoline, which contain 15% ethanol, versus the current 10% blend of ethanol. The company is however, selling E85, which is gasoline with 85% ethanol, for flex fuel vehicles.

END

The Ethanol Gas-Pump Surcharge
A 2007 mandate is needlessly raising U.S. gasoline prices.

With gas prices above $4 a gallon in many parts of the U.S., consumers have a right to know why. Crude oil prices have fallen by 1% since the end of February even as gas prices are up 12%, according to an analysis by Reuters. So higher oil prices aren't the answer. Blame this one, at least in part, on Washington and ethanol.

This story dates to 2007 when the Bush Administration joined Democratic greens and corn-state Republicans to pass an energy bill mandating renewable fuel standards. The law required a 10% ethanol blend in all gasoline and established annual mandates for how much ethanol the oil and gas industry must purchase each year through 2022.

This year refiners and importers are required to blend 13.8 billion gallons of ethanol into the nation's gasoline, rising to 14.4 billion next year. The EPA allocates a share of this mandate to oil and gas companies, and to monitor compliance each gallon of ethanol is assigned a 38 digit Renewable Identification Number, or RIN.

The problem is that Washington's seers were wildly wrong about how much gas Americans would keep putting in their tanks. In 2007 annual gasoline consumption was about 140 billion gallons per year, with forecasts of rising demand. But the 2008-09 recession and better fuel economy have lowered consumption to an estimated 135 billion gallons.

Refiners are now crashing into what is called a "blend wall," meaning the feds have forced them to purchase more ethanol than they can safely put in their gasoline. Refiners are reluctant to blend more than 10% ethanol into gasoline because consumers don't want it, and because a higher blend can damage the engines of older cars, boats and electrical equipment.

Refiners must therefore purchase RIN credits from companies that have used more ethanol than required. But the credits are running out, and so the price of RINs has soared to nearly $1 a gallon, up from about seven cents at the start of the year. According to Darrel Good, a University of Illinois agriculture economist, the RIN price "could continue to rise as we approach the higher ethanol mandate for 2014" as credits run out. These costs are mostly passed on to motorists.

Refiners are also getting around the renewable fuels mandate by shipping refined gasoline abroad, because exported gasoline is exempt from the ethanol requirement. So even as domestic gasoline prices have soared, refiners are increasing their exports, and that too has contributed to higher prices.

The fix here is obvious. The EPA has the authority to revise the ethanol requirements, and if it did so tomorrow the price of gas would quickly fall by about five to 10 cents a gallon. If EPA won't act, Congress can and should suspend the ethanol blending mandate to give motorists a break.

Printed in The Wall Street Journal, page 16
A version of this article appeared March 12, 2013, on page A16 in the U.S. edition of The Wall Street Journal, with the headline: The Ethanol Gas-Pump Surcharge.

PO Box 2639 P: 701-222-0929
Bismarck, ND 58502 F: 701-222-1611

(10) SB2245
3-19-2013

Testimony- SB 2245
March 19, 2013

Chairman Keiser and House IBL committee members:

For the record, my name is Thomas Haahr. I am the CEO/General Manager of Farmers Union Oil Company of Devils Lake. In 2010, our board made the decision to install new blender dispensers in four of our locations. This was completely done at our own expense totaling well over $310,000. This included double wall piping, leak detection equipment, electrical service and concrete work.

I am here to ask for a **DO PASS recommendation on SB 2245.**

As a leader of a modest cooperative, I strive to find the most reasonable priced product, ensuring the highest quality fuels for our patrons. Senate Bill 2245 will guarantee that our cooperative will be able to continue to find these products for our patrons without the fear of escalated prices due to being forced to buy from one branded supplier. With this bill, we as retailers will have the right and opportunity to continue to offer several blended products to our customers in the future as we do today. We currently have the option and use it to, buy ethanol directly from the manufacturer which cuts out the middle man and decreases the cost to our patrons and increases the value of doing business locally.

I, like all of my fellow retailers in this room, wish to continue to supply the highest quality petroleum products at a reasonable cost to our patrons. Even a retailer without blender pumps in operation today, will retain the right to blend their product in the future with the passing of this bill.

Just to be clear, any corporate CHS testimony in opposition to this bill does not represent small local co-ops such as ours. Please give us as retailers the right to continue blending as we have proven for several decades that we are more than capable of completing this task on our own.

I again, urge a **DO PASS recommendation on SB 2245** from this committee. Thank you for your time and consideration.

Thomas Haahr
CEO/General Mgr.
Farmers Union Oil Co.
701-662-4014