

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1478

2005 HOUSE FINANCE AND TAXATION

HB 1478

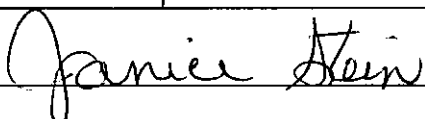
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1478**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 25, 2005**

Tape Number	Side A	Side B	Meter #
1	X		0.5
Committee Clerk Signature 			

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

REP. RICK BERG, FARGO Introduced the bill. There are two things that are important to North Dakota in relation to renewable fuels as it relates to agriculture. One is, we are trying to encourage more plant production, one way to do that, is an increase in consumption. This bill is trying to increase consumption of ethanol in the State of North Dakota.

JOEL GILBERTSON, REPRESENTING THE NORTH DAKOTA CORN

UTILIZATION COUNCIL. Testified in support of the bill. We see this as a great way and a quick way, by having this tax incentive, to greatly increase the sales and use of ethanol in the state. The reason for that is simple, a gallon of E85, has eight and a half times as much ethanol as a gallon of E10, which is the ten percent, you often see. There are some hurdles we need to go over and reasons for the incentive, but we think this bill will increase the use of E85 in this state. We have set up tax incentives of twenty cents per gallon on E85 fuel, E85 is 85% ethanol. The

very recent change, in Section 3, right now the funding source in the bill is in violation of the excrow fund. I found out late Friday afternoon, we had been working with the governor's office with these funds, and found out looking at, the setup was going to be that this fund would then reimburse the section of the highway distribution fund. What we found out, there is a good likelihood, that this particular funding source, cannot be used for a tax incentive. The funding source question, is an open question at this time. We are going to continue on getting the funding source. What I am requesting is that you reopen the possibility of amendments which will be brought in later as far as exactly what the funding source will be. We are working with the governor's office, various legislators and the Department of Commerce to get that funding source.

Another change you will see, when we get the funding source finalized, we will have a maximum amount, right now there is no maximum amount. You will know what the total will be when everybody starts buying E85.

REP. KELSH Is the petroleum violation fund, commonly known as the oil overcharge fund, is that what we are talking about?

JOEL GILBERTSON It is, I prefer to call it the overcharge settlement escrow.

MIKE WILLIAMS, FARGO CITY COMMISSIONER, FARGO, ND Testified in support of the bill. We have two Cenex gas stations in Fargo and West Fargo selling E85, in looking at South Dakota and Minnesota, they are a bit ahead of us in developing their resources. In Fargo we are always looking for ways to up that tax base, the only way we can do that is to utilize and develop our resources. With ethanol, the idea is to increase consumption. Part of the value added industry that hasn't worked very well in North Dakota, is we develop these products, when

our market is away from the area where it is being developed. When you do these renewable projects, our market is right here, so our residents will be able to cut the cost of whatever they are doing, with these flex fuel vehicles, if they can save twenty cents per gallon, they will be more efficient and competitive in the market. The highest paying jobs in North Dakota are energy and manufacturing. When we can reduce the costs for manufacturers, we can give low cost energy. We have the full support of the City of Fargo with this bill.

JOCIE ISZLER, EXECUTIVE DIRECTOR, NORTH DAKOTA CORN UTILIZATION

COUNCIL Testified in support of the bill. See attached written testimony.

REP. IVERSON I would like to see a copy of the study, relating to where they get fourteen dollars back for every one dollar they invest.

JOCIE ISZLER Stated she would get that to him.

REP. OWENS Can you retrofit any of these computer chips to any older vehicles?

JOCIE ISZLER there have been some questions about that on the market place, things like that have been advertized, retrofitting fit, but the National Ethanol Vehicle Coalition does not recommend those. This E85 is meant for flex fuel vehicles, and those vehicles are warranted for the use of any mxture of gasoline from one hundred percent gasoline to up to eighty five percent ethanol.

REP. OWENS We are talking about changing different fuels here, while the price may look enticing, with the change, what kind of fuel economy are we trying to sell

JOCIE ISZLER Yes, there is a difference in fuel economy, anywhere from five to fifteen percent, depending on the vehicle and the driving habits. The big picture we are trying to address

here also, is that, the true cost of a gallon of gasoline, when you look at environmental cleanup costs is closer to five dollars per gallon.

REP. OWENS When they go to fill up their car, they are thinking gas mileage, they aren't thinking about cleanup and everything.

REP. DROVDAL Gave a brief history of last session, does Minnesota have a mandate of the use of ethanol on the books?

JOCIE ISZLER Minnesota's law is actually not a mandate, it is a oxygenate requirement. In 1990, the Minneapolis area was not a clean air area, and the Minneapolis area had to use ten percent ethanol, or oxygenate to clean the air. Because of it, they decided it should be ethanol. Later they decided to have the whole state go with the oxygenate requirement.

REP. DROVDAL My second question has to do with a bill we had last session, it had to do with dealers putting in a separate tank and putting in one tank for ethanol to have it available for the consumer, has your committee done any study, that is acceptable to the retail petroleum industry, if we are going to have a market for it when we get done with this project?

JOCIE ISZLER I would like to have Kent Satrang address that.

REP. HEADLAND Today E85 is twenty cents less than regular gasoline, is that because it costs less to produce ethanol?

JOCIE ISZLER The twenty cents comes from the federal blenders credit. The federal blenders credit is a credit of fifty two cents on a gallon of one hundred percent ethanol. That blenders credit, specifically, is taken at the site of payout, which is the ethanol plant. The blenders credit is different for E85 then for E10. For E10, that 5.2 cents, which is ten percent, can be paid by the petroleum retailers, but that mechanism is not the same for the E85. However, the law changed, I

believe as of January 1, that tax credit can be taken at the site of sale at the petroleum retailers instead of the ethanol plant, and that has caused somewhat of a barrier to using the E85, by the petroleum retailers, because it has been difficult with the blenders credit, as it is taken on the income tax of the facilities versus on their fuel tax.

REP. HEADLAND Today the retailers are able to put 5.2 cents in their pocket because of a federal tax credit?

JOCIE ISZLER It is not a full 5.2 cents. The company has done some data analysis, and what our analysis showed is that on a consistent basis, petroleum retailers, the cost of E10, is about a cent and a half less, then unleaded.

REP. WRANGHAM As you stated, taxes can be passed on to the retailers, do you have any mechanisms to ensure that that is what is done?

JOCIE ISZLER The council's intent of the bill, is that there will be some statement made in the legislation, that is in touch with other legislation. However, right now, we don't have specific language that would require that.

KENT SATRANG, GENERAL MANAGER CENEX PETRO SERVE, & MEMBER OF THE NORTH DAKOTA CORN UTILIZATION COUNCIL, FARGO Testified in support of the bill. See attached written testimony.

REP. BELTER What has been your experience in the retail of this, I bought a new caravan and it is not equipped for E85, here it says for fleet vehicles only, is a lot of the E85 for fleet vehicles, or are more and more cars coming on line for this?

KENT SATRANG We have only one fleet that uses the E85, and that is the Cass County Electric has a fleet of five vehicles. It is mostly people with suburbans, tahoes, the taureses.

BRIAN KRAMER, NORTH DAKOTA FARM BUREAU testified in support of the bill.

We stand in support of this bill for the obvious reasons, increased marketing possibilities for grains, particularly corn, valuing adding to our agricultural products, economic development for North Dakota. Also, there is the possibilities for increased livestock feeding. The jobs that are created in the ag industry and elsewhere is good. We do see a couple of problems, in the petroleum violation fund, as was explained earlier, it may not be the funding source that is written in the bill. We do have some concerns about the tax incentives being passed on to the consumer. We would like to see some language placed in there that would encourage those retailers will pass that along to the consumer.

WOODY BARTH, REPRESENTING THE NORTH DAKOTA FARMERS UNION

Testified in support of the bill. Our members support the use of ethanol in vehicles here in North Dakota. We have a number of Cenex stations we are affiliated with that promote the use of ethanol, in Fargo, West Fargo, Leonard, Devils Lake. We hope the funding mechanism can work out to fund this.

JEFF WEISPFENNING, ON BEHALF OF ROGER JOHNSON, STATE

AGRICULTURAL COMMISSIONER Testified in support of the bill. Submitted written testimony from Roger Johnson. See attached copy.

ALAN ERICKSON, NORTH DAKOTA TOWNSHIP ASSOCIATION Testified in support of the bill.

With no further testimony, the hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1478**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **February 1, 2005**

Tape Number	Side A	Side B	Meter #
2	X		9.9
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. BELTER Presented amendments to the bill with the language that would say, fuel containing a minimum blend of 85% ethanol.

JOEL GILBERTSON, NORTH DAKOTA CORN COUNCIL Explained the changes in the amendments. There are five retailers in the state who sell the E85 now, and they agree to pass along the 20 cent savings to their customers, and they also agree to the language in these amendments.

REP. WRANGHAM Questioned how will this be enforced?

JOEL GILBERTSON It will be difficult to enforce, however, we have a few retailers who will sell this, we will all know which ones they are. The Corn Growers will be spending a lot of money on publicity for this, everyone out there will know they are getting a 20 cent break.

REP. OWENS Stated that he stopped at a retailer who did not pass the 20 cents on to the consumer.

REP. HEADLAND Made a motion to adopt the amendments as presented.

REP. BRANDENBURG Second the motion. Motion carried by voice vote.

REP. SCHMIDT Made a motion for a **do pass as amended and rereferred to appropriations.**

REP. OWENS Second the motion. **MOTION CARRIED.**

13 YES 0 NO 1 ABSENT

REP. OWENS Was given the floor assignment.

FISCAL NOTE
Requested by Legislative Council
03/18/2005

REVISION

Amendment to: Engrossed
 HB 1478

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$250,000)		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1478 with Senate Amendments reduces the motor vehicle fuels tax rate for sales of "E85" fuel to one cent per gallon.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is estimated that Engrossed HB 1478 with Senate Amendments, if enacted, will result in increasing the consumption of "E85" fuel in North Dakota. This will result in a revenue reduction for the ag products utilization commission of up to \$250,000 for the 2005-07 biennium. (The tax exemption stops in the month after 1,200,000 gallons of E85 is distributed.)

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/21/2005

FISCAL NOTE
Requested by Legislative Council
03/10/2005

Amendment to: Engrossed
 HB 1478

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$90,000)		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1478 with Senate Amendments reduces the motor vehicle fuels tax rate for sales of "E85" fuel to one cent per gallon.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is estimated that Engrossed HB 1478 with Senate Amendments, if enacted, will result in doubling the consumption of "E85" fuel in North Dakota to 225,000 gallons per year. This will result in a revenue reduction for the ag products utilization commission totaling \$90,000 for the 2005-07 biennium. (The tax exemption is stops the month after 1,200,000 gallons of E85 is distributed. The cap is not expected to be reached in the 2005-07 biennium.)

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/14/2005

FISCAL NOTE

Requested by Legislative Council
02/08/2005

Amendment to: HB 1478

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$90,000)		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1478 reduces the motor vehicle fuels tax rate for sales of "E85" fuel to one cent per gallon.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is estimated that Engrossed HB 1478, if enacted, will result in doubling the consumption of "E85" fuel in North Dakota to 225,000 gallons per year. This will result in a revenue reduction for the ag products utilization commission totaling \$90,000 for the 2005-07 biennium. (The tax exemption is capped at \$250,000, which equates to 1,250,000 gallons of E85. The cap is not expected to be reached in the 2005-07 biennium.)

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/10/2005

FISCAL NOTE

Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1478

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$90,000)		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1478 reduces the motor vehicle fuels tax rate for sales of "E85" fuel to one cent per gallon.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is estimated that HB 1478, if enacted, will result in doubling the consumption of "E85" fuel in North Dakota to 225,000 gallons per year. This will result in a revenue reduction for the petroleum violation escrow fund totaling \$90,000 for the 2005-07 biennium (assuming the transfers are made from this fund to the highway distribution fund, as provided in Section 3 of the bill.)

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/23/2005

Date: 2-1-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1478

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do

Pass

AS

amended +

Motion Made By

Rep. Schmidt

Seconded By

Rep. Owens

referred to Appropriations

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes)

13

No

0

Absent

1

Floor Assignment

Rep. Owens

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

REPORT OF STANDING COMMITTEE

HB 1478, as amended, Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1478, as amended, was placed on the Sixth order on the calendar.

Page 1, line 10, replace "fuel containing a minimum blend of eighty-five percent ethanol" with "a petroleum product that is a blend of agriculturally derived denatured ethanol and gasoline or natural gasoline that typically contains eighty-five percent ethanol by volume, but at a minimum must contain sixty percent ethanol by volume. E85 produced for use as a motor fuel must comply with ASTM specification D 5798-96"

Page 1, line 19, after the underscored period insert "Within the scope of this section, the entire amount of this tax exemption must be available to consumers of E85. After the amount of two hundred fifty thousand dollars has been transferred from the fund as provided in section 57-43.1-28 to the highway distribution fund, the exemption from the tax in this subsection is no longer effective."

Page 2, line 29, replace "petroleum violation escrow fund" with "agricultural products utilization commission funding"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1478

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1478
E85 Fuel

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 14, 2005

Tape Number	Side A	Side B	Meter #
2		X	#0 - #22.3
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

Clerk Note: (conversation of this bill began on side A of Tape #2, but there was a mix up in the bill number that was announced so by the time they got it straightened out the real discussion of the bill began on side B of Tape #2.)

Rep. Ken Svedjan, Chairman opened the discussion on HB1478 (tape says HB1278 on side A of Tape #2, but this is a mistake).

Rep Belter introduced the bill by saying that bill was amended. As it was originally written the bill would have taken money from the petroleum escrow fund. Instead of the 21 cent tax E85 will only have 1 cent tax that will go to the townships. The 20 cents in tax that would normally go to the state will not be charged. In order to make up that 20 cent loss, the original bill would have taken the money from the Petroleum Escrow fund, but it was found that this money was not accessible. So through negotiations the funds will come from the Agriculture Products Utilization Commission (APUC) and they are capped at \$250,000. If this passes it should be

amended in the Senate so that there will be an announcement sent out warning retailers that we are reaching the cap and they will not get the tax break once we reach the cap.

Rep. Ken Svedjan, Chairman clarifies that 20 cents will not be charged on E85 and 1 cent will still go to the township. For giving up the 20 cents tax on E85 we will then go to APUC to the extent of \$250,000.

Rep Belter answered that the amount is \$250,000 as it is written originally but when we amend in the Senate we will probably change that to \$225,000.

Rep. Mike Timm, Vice Chairman asked if E85 was 85% ethanol and 15% gasoline and if people actually burn this in their cars.

Rep Belter answered that this was correct and this is one of the reasons we needed under the amendment because under the definition E85 has to have 65% or more ethanol. In the production process it is hard to get it to come out to exactly 85%. You have to have a car that is properly equipped to have it run on E85.

Rep. Mike Timm, Vice Chairman asked what was involved in equipping cars for this.

Rep Belter answered that there is no real retro fit to put on your car, you pretty much have to purchase it this way. There was testimony in the committee concerning how many vehicles have this capacity and they are producing more. You can burn regular gasoline as well in these cars.

Rep. Clark Williams asked if, because you have to have a specially built car to run this E85, it was possible that we wouldn't reach the cap on this

Rep Belter answered that this is possible but we would like it to be there just in case. We will amend this in the Senate.

Rep. Al Carlson asked if the tax is only 1% will we see this reflected savings at the pump.
(meter Tape #2, side B, #4.7)

Rep Belter answered that the retailer should pass it along to the consumers. There is language on page 1, lines 23 and 24 that talks about this, but there is no enforcement of it, its all done on trust. We will have to watch the market to see what happens.

Rep. Al Carlson commented that HB1308 was establishing a trust fund for APUC and finds it hard to separate these two. There is a fiscal note concerning renewable energy on both of these bills and some of the sponsors are the same. How do they relate.

Rep Belter had no answer as to whether there is a connection between the two bill or not.

Rep. Bob Skarphol asked what the source of funds were for APUC.

Rep Belter answered that the APUC funding is appropriated. This comes out of their existing budget, but whether APUC has requested extra dollars for this or not is not known to me.

Rep. Jeff Delzer asked if the committee looked at how other states were doing this, because the tax break here is given to the person who can afford the newly equipped car.

Rep Belter answered that he was unsure.

Rep. Jeff Delzer asked if any of the E85 was produced by the two plants that are producing ethanol in North Dakota.

Rep Belter answered yes.

Rep. Pam Gulleon responded to the question concerning the relationship between HB1478 and HB1308 by saying both bills are incentive bills to promote renewable energy. This bill focusing on just E85 and the tax side of it and is funded through APUC. The other bill has the \$1.5

million funded through the general fund and \$2 million out of the ethanol incentive fund. That one is more broad to incentivize all types of renewable energy.

Rep. Ron Carlisle asked if anything has been done with the commerce bill in Senate.

Rep. Ken Svedjan, Chairman answered that he was unaware of what has been done with the bill but that we would need to flag the bill so we know to look at it closely on this when we get it.

Rep. Alon C. Wieland asked what the current subsidy of ethanol from the state.

Rep Belter answered that there is a subsidy to the two industries.

Rep. Joe Kroeber answered that it was 600,00 to one and \$300,000 to the other.

Rep. Jeff Delzer explains that last session we passes a bill that put into effect counter-cyclical a way of supporting the industry. It says that any entity that has received appropriations for over 10 years cannot have them and puts aside a fund that has \$3.2 million in it. The subsidy is dependent on the price of corn and the price of gas. This was capped at 10 years or \$3 million per plant. It could not pass from one entity to another if you sold the plant. There was an appropriation at that time of 600,000 and \$300,000, but is not supposed to be appropriated to the two existing plants in this biennium. (meter Tape #2, side B, #9.6)

Rep. David Monson commented that North Dakota plants make the ethanol but not the E85.

Rep. Mike Timm, Vice Chairman commented that in Fargo the price was \$1.59 for E85 and asked how they can sell this at this price without a subsidy on the tax.

Rep Belter answered that it may have been a promotional thing.

Rep. Mike Timm, Vice Chairman asked why we would give them a subsidy if they are able to do this now.

Rep Belter answered that we have extremely high fuel supply now and this can change so this was probably a promotional price.

Rep. Ole Aarsvold commented that this was a promotion and it was funded by the corn growers and they spent a significant amount of money on this. There is a concern about limiting this to E85. Why not expand this to make this more accessible to more people to use the product.

Would a 5 cent break on the gas tax, with it being applied to all ethanol fuels, and put a cap on it for \$250,000, be a better way to get people used to the use of ethanol enhanced fuels.

Rep. Larry Bellew asked if this was a permanent tax reduction.

Rep Belter answered that it was permanent until the assembly meets again and decides to change it.

Rep. Al Carlson asked how this will be monitored.

Rep Belter answered that retailers send quarterly reports on how much fuel they have sold. This should then be set up so that when the amount reported hits \$225,000, there would be an announcement that this would be the last quarter that this break would be in effect. This way there would be a cushion there to make sure we didn't go over the \$250,000 cap.

Rep. Ken Svedjan, Chairman asked if it was the intent of the standing committee that there should be an additional appropriation be made to APUC or that they should use their current appropriation.

Rep Belter answered that they should use their current appropriation.

Rep. Ken Svedjan, Chairman asked how much was currently appropriated to APUC.

Rep. Pam Gulleeson commented that the source of APUC's funds are all special funds. Its the refunded gas tax refund.

Rep. Bob Skarphol answered that APUC's appropriation was \$2.79 million which is a reduction of \$1.1 million from last biennium.

Rep. Ken Svedjan, Chairman asked if the standing committee verified the validity of using this fund for this purpose.

Rep Belter answered that he was told that the Agriculture department did not have any problem with funding this portion. This was not a personal conversation with the commissioner but the lobbyist who works with the corn growers on this issue said that the commissioner was okay with this.

Rep. Ole Aarsvold commented that the Ag Products Utilization Commission is now in the Commerce department and not in Agriculture.

Rep Belter commented that he is unsure when that conversation happened.

Rep. Al Carlson commented that there was a tie between HB1308 and HB1478 because there is \$1.5 million in general fund money going into APUC in HB1308. (meter Tape #2, side B, #16.5)

Rep. Jeff Delzer asked if the stations that sell E85 can lower their pump prices or are they going to have to charge the regular amount and then give a refund to the customer who comes inside.

Rep Belter answered that their price should be lower, but not in refund form. The intent is that the retailer would sell E85 at cost with a small profit plus the tax.

Rep. Ken Svedjan, Chairman asked where the \$250,000 that comes out of APUC goes.

Rep Belter answered that the Highway Distribution Fund is reimbursed.

Rep. David Monson asked about the gas mileage of cars using E85.

Rep. Belter answered that testimony stated that you could expect up to 5% - 15% reduction in economy with E85.

Rep. David Monson commented that we would have to see a reduction in price to use E85 because they would not get as much mileage.

Rep. Larry Bellew asked how many stations in the state carried E85.

Rep. Belter answered that he was not sure. Cenex is one of the big promoters of this.

Rep. Eliot Glassheim moved a Do Pass motion on HB1478

Rep. Keith Kempenich seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass motion for HB1478.

Motion carried with a vote of 14 yeas, 5 neas, and 4 absences. Rep Owens will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1478.

Date: February 14, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1478

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep Glassheim Seconded By Rep Kempenich

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol		X
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	AB		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	AB		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland		X
Rep. Pam Gulleeson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	AB				
Rep. Clark Williams	X				
Rep. Al Carlson		X			

Total Yes 14 No 5

Absent 0

Floor Assignment Rep Owens

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2005 12:56 p.m.

Module No: HR-29-2775
Carrier: Owens
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1478, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (14 YEAS, 5 NAYS, 4 ABSENT AND NOT VOTING).
Engrossed HB 1478 was placed on the Eleventh order on the calendar.

2005 SENATE FINANCE AND TAXATION

HB 1478

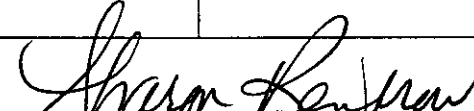
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1478**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 8, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		45.2 - 61.54
		X	0.0 - 24.0
Committee Clerk Signature 			

Minutes:

CHAIRMAN URLACHER CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1478.

REP. BERG: appeared as prime sponsor of the bill stating this bill is really geared towards trying to encourage and expand our renewable fuels. What the bill in essence does is it says that on E85 we would drop the tax rate from 21 cents down to 20 cents and we would cap the cost of this at \$250,000 dollars. Again the thrust of this is to put the focus on the consumer that the consumer hopefully will be encouraged to use E85 and E85 as the committee knows is a higher percentage of ethanol, a higher percentage of overall its a time to move the State forward to a higher usage in this fuel, it does promote that.

REP. BELTER: appeared as cosponsor of the bill stating we did amend the bill over in the House on line 23 that says with the spoke of this section the entire amount of the tax exempt must be available to the consumers. We hope that that will encourage the retailers to pass this

tax break along to the consumer, now whether this language will do it or not, but that certainly was the intent. One of the things that we had thought about was actually doing like a rebate program such as the farmers do for their gas tax rebate, but we decided not to do that because it would be rather cumbersome to the consumer. The Tax Dept. will have several options of amendments, the bill is a \$250,000 cap on it and they will explain the amendments.

RON RAUSCHENBERGER: Governor's Office appeared in support and to simply say they echo what the majority leader said and its a good bill for ND.

ROGER JOHNSON: Ag Commissioner appeared in support with written testimony.

SEN. WARDNER: on page 2 of the bill, \$250,000 dollars is transferred to the Highway Distribution Fund, where is that coming from?

ANSWER: its from APUC as it is right now

SEN. WARDNER: do you know is there an appropriation in APUC or is it just part of their general granting?

ANSWER; if there is a down side of the bill, I would say its the source of the money, this has been the source of a lot of frustration and angst I think during this session as to where you get the money from.

RICK CLAYBURGH: Tax Commissioner appeared to state that Rep. Belter addressed an issue late prior to cross over, we discovered an issue within the bill there is an issue with the bill as its written now with the cap language in place that without amendments to the bill could potentially create if the cap is reached during the biennium a fair amount of administrative headaches, not only to the Tax Dept. But also to the wholesalers/retailers. So we ask the committee take a look

at a couple of proposals as we offered. We do currently have a problem with the administration of the cap and that's the only issue we have.

JULIE FEDORCHAK: of the ND Corn Council appeared in support stating I would like to direct you to one section, section 2 talks about reducing the tax on E85 to from 21 cents to 1 cent and the House people were curious about why the 1 cent was remaining, and to clarify that that is the tax that goes to the Townships.

KENT SATRANG: General Mgr. of Cenex Petro Serve F-M appeared in support with written testimony.

JOCIE ISZLER: ND Corn Council appeared in support with written testimony,

SEN. WARDNER: so the reason for that 20% discount at the rack is because of what the blenders credit? I haven't heard of that before.

ANSWER; the Federal Govt. Has given a 52 cent per gallon credit for 100% ethanol and that's called a blenders credit and the blender of record keeps that credit, its a tax credit and depending on distribution and how integrated the company is, in terms of how many exchange points there are between the ethanol plant and the actual point of sale. That blenders credit can be passed on in a variety of ways.

SEN. WARDNER: tell me how ethanol is distributed from the ethanol plants into the system, how it gets to the pumps, when we talk about rack is it sold from ethanol plants to petroleum marketers, I'm not sure how that goes and I need to know how its tracked.

MR. SATRANG: there is a couple different options depending on where you located in the State. Being in the Red River Valley we are close to ethanol plants in Grafton, ___ and some in MN, so we can buy directly from the ethanol plants, they take 15% of what they call diametric

gasoline and mix that with 85% ethanol, we go pick it up with our transports, we give them a check, put it in our tanks and we sell it. Here in Bismarck it would be a little bit more complicated because you don't have an ethanol plant close by you, but they would probably go down to Aberdeen, SD and would probably buy it directly from that ethanol plant. But they could also buy it from wholesalers like Cenex. It's tougher in the western part of the state because we don't have ethanol plants but once Richardton is up and running, it will make it a lot easier.

SEN. WARDNER: the reason I want to know is this discount, does it flow through, is there several people in between, is it easy to get the discount? Apparently it is and for definition purposes, an ethanol plant is considered the rack when you pick the product up there?

ANSWER; that's right, that would be the rack particularly in MN where they mix it with gasoline to make the 85, its more difficult in ND because we're just in the infancy of this market, so the ethanol plants here aren't mixing gasoline and ethanol to make E85 yet. So their rack doesn't include the E85 product. The blenders credit has been passed on for years, so when we buy E10 we get about a 5% less cost of E10 because of the blenders credit and now the E85. Like Jocie said you could do that as a retailer, we could do it ourselves and then we would get that tax back at the end of the year but that was based upon if we were profitable and not every gas station is profitable so you were taking quite a risk.

SEN. WARDNER: is ethanol being sold in Fargo less than regular?

ANSWER; yes, everyday for the last year, it was sold at 20 cents less than unleaded gasoline and if this bill is passed, we'll guarantee it for the next year as long as the tax money is available, it will be sold for 40 cents less. We will pass it on.

SEN. TOLLEFSON: in your projection how long would this \$250,000 max last?

ANSWER: I hope it doesn't last very long. I hope it really takes off well, but my guess is that it would last about a year and I think it will really go well in the Fargo market.

SCOTT HANDY: Cass County Electric Cooperative in Kindred, ND appeared in support with written testimony.

JOSH KRAMER: ND Farmers Union appeared in support with written testimony.

GARY ANDERSON, Tax Dept. appeared neutral on the bill stating they will provide amendments.

JOCIE ISZLER: ND Renewable Energy Partnership appeared in support with written testimony.

BRIAN KRAMER: ND Farm Bureau appeared in support stating we to support the bill and I think its all been said.

HAROLD NEWMAN: owner of the Alchemllc, ethanol plant in Grafton appeared in support stating they make 11 million gallons a year and use 3.6 million bushels of corn.

Closed the hearing.

DAN ROUSE: Tax Commissioner's Office appeared to propose some amendments and walk you through them.

SEN. WARDNER: it seems like one option is as good as any.

ANSWER: I would agree with you from just a purely administrative point of view. The beauty of the 2nd option is even as this is implemented, we can send that message out to those dealers that we're dealing with saying bear in mind, your going to get a message from us and its going to come the month following the month in which we reach this threshold. Of the 3, its the most

workable. If you are all still looking to APUK for the reimbursement, bear in mind, it may not be a clean \$250,000 for a 1.2 million gallons.

SEN. URLACHER: where ever we go for money, we're going to be short but I'm curious as to what the impact will be on APUK?

SEN. WARDNER: it won't be any more than \$250,000.

DAN ROUSE: it conceivably could be less if you establish a clear sunset on this. If you go with the 2nd or 3rd option its more likely than not that it would be slightly more. Page 3, lines 2 to 5 where the mechanism by which drafters of the bill contemplated reimbursement would come from the Dept. Of Commerce.

SEN. BERCIER: just for clarification, there is 1 cent that is still going to the township?

ANSWER; yes

SEN. WARDNER: I support it and I think we should vote on it and get it to Appropriations so they can deal with it.

SEN. BERCIER: made a **MOTION TO ADOPT THE 2ND AMENDMENT**, seconded by Sen. Wardner.

VOICE VOTE: 6-0-0 **MOTION CARRIES**

SEN. WARDNER: made a **MOTION FOR DO PASS AS AMENDED AND REFER TO APPROPRIATIONS**, seconded by Sen. Bercier.

ROLL CALL VOTE: 5-1-0 Sen. Wardner will carry the bill.

SEN. EVERY: there is one interesting foot note to this bill and that is that our predatory pricing bill that I really wanted to support but the Cenex dealers in my area called one right after another and said "don't pass it" and then he gets up there and says they are going to sell it 40 cents below

everybody else and I bought E85 in Devils Lake for 99 cents a gallon. And he said oh, that was a mistake, and I said "I bought it for 99 cents a gallon", that's predatory pricing and he admitted that it was. This is going to throw a wrench in their marketing, the predatory pricing thing will throw a wrench in their marketing for E85 and he didn't even realize that.

SEN. WARDNER: they want to buy gas cheaper, ethanol is their alternative and its 20 cents per gallon cheaper now from what he tells me and if we pass this bill it will be 40.

SEN. COOK: its cheaper only if you subsidize it. What's the ultimate goal? Should we have 100% of the traffic in ND driving with E 85 and if so, then what would we do? If we subsidize it to accomplish that ultimate goal, there's another industry out there that we are displacing that contributes greatly.

SEN. WARDNER: I really wasn't looking at it from the stand point of the industry and all that, I was as the customers, when the customers talk to you, they are so angry about the price of fuel. I'm saying burn ethanol then. They just think that the retailers have rigged everything in town.

SEN. EVERY: saves \$8.00 a fill

SEN. COOK; where is that \$8 is coming from, out of who's pocket should we say that \$8 should be coming from? The retailer who is selling you the gas, he's not losing that \$8.

SEN. EVERY: so the petroleum industry is?

SEN. COOK: for what ever amount of gallons that they lose because its ethanol, the petroleum industry I suppose would lose whatever the profit they could make if they had sold that gallon but we are, the State loses the taxes generated if we had sold that gallon, taxes that go to the highway.

SEN. TOLLEFSON: well it isn't a huge amount really, its an incentive and a way to try and get the thing off of the ground.

SEN. EVERY: Devils Lake is one of the very few in the State where you can buy E85, so we are lucky to be able to even get it.

SEN. COOK: you mentioned the predator bill, I was thinking how he was making a comment he guaranteed that it would be sold under, how do we guarantee?

SEN. EVERY: its kind of hypocritical of him to talk that way when they were the ones that lobbied me to vote the way I didn't want to vote.

Date: 3-9-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1478

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt 2nd Amendment

Motion Made By Bercier Seconded By Wardner

[illegible]

Total (Yes) 10 No 0

Absent _____ c)

Floor Assignment _____

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

Date: 3-9-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1478

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended & Ref to Approp's.

Motion Made By Wardner Seconded By Berrier

[illegible]

Total (Yes) 3 No 1

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE

HB 1478, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1478 was placed on the Sixth order on the calendar.

Page 1, line 5, remove the second "and"

Page 1, line 6, after "date" insert "; and to provide an expiration date"

Page 1, line 24, remove "After the"

Page 2, remove lines 1 through 3

Page 3, line 7, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 3, line 8, after "2005" insert ", and through the month in which a cumulative total of 1,200,000 gallons of E85 fuel has been reported to the commissioner as required in section 57-43.1-02, and after that date is ineffective"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1478


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1478

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 18, 2005

Tape Number	Side A	Side B	Meter #
1	x		3,278
Committee Clerk Signature 			

Minutes:

Vice Chairman Bowman opened the hearing on HB 1478.

Representative Wesley Belter, District 22, Leonard, testified in support of HB 1478 indicating the purpose of the bill is to promote E85 ethanol use in North Dakota and it refers to any fuel with 60 percent or more ethanol volume. This reduces the tax on E85 fuel by 20 cents from 21 cents a gallon. the one cents will still go to the local townships. The state will loose the 20 cents. The bill requests \$250,000 to fund this. There is language in the bill to have a cut off point after 1.2 million gallons are sold.

Senator Robinson stressed concerns at having no minority sponsorship with this bill as renewable energy is a nonpartisan issue.

Senator Thane indicated the fiscal note shows a reduction to Ag Products utilization of \$40,000.

Is this an actual reduction. The response was there is no reduction.

Senator Thane are there thoughts on replacing that in any way. The response was this is an ag product and that is where the money is coming from to develop the project.

Senator Tallackson asked what the present usage is of E85 fuel. The response was didn't know, the tax department can get this.

Senator Tallackson indicated the idea is to implement the use of E85. The response was yes that is correct.

Senator Fischer asked what percentage of cars use E85. The response was at this time don't know but the auto industry has information on the Internet.

Senator Christmann questioned the lost revenue to the state and revenue of the refineries and whether the refineries have been involved in this process. The response was Cenex testified for this bill and 1.2 million gallons is a pretty small drop in the bucket.

Joel Gilbertson, Vogel Law Firm, Bismarck, testified in support of HB 1478 and introduced Jay Nissen.

Jay Nissen, Chairman, ND Corn Utilization Council, Larimore, distributed a handout and testified in support of HB 1478. He discussed ethanol, the number of vehicles licensed in ND, the amount of usage in North Dakota this year, the availability of E85 (E85 is offered at 5 stations in ND), and the economic impact on North Dakota.

Senator Fischer asked what the mileage difference is per mile. The response was

Senator Mathern asked why promote E85 when not everyone can use it. The response was that all ethanol fuels are promoted but they determined to promote the E85 as it is achievable.

Senator Christmann asked what the goal is in the marketplace. The response was the goal is to increase usage of E85 and that is the fuel that would grow the fastest.

Senator Christmann would the reduction always be in the 20-40 cent reduction rate. The response was that yes it should be.

Senator Thane asked if any promotion is being done with the auto dealers. The response was yes the marketing team has ideas to work with dealers.

John Schneier, Executive Director Agricultural Products Utilization Commission (APUC), distributed testimony and testified in support of 1478. He discussed APUC as a granting agency and indicated the five grant categories within the program.

Senator Bowman asked where the 20 cents comes from, federal or sellers. The response was the currently the 20 cents is the blenders credit passed to the wholesaler and to the dealer.

Several questions were asked about the usage of E85 if the vehicle is not a flex fuel vehicle or E85 vehicle. The response was that there could be problems.

Senator Schobbing asked if he went to a local dealership could be shown an E85 vehicle. The response was not familiar with all dealerships but there are some available and there is a web site that lists all vehicle models that are equipped for e85 fuel.

Senator Grindberg asked if this a supply and demand issue and overtime will there be more availability of E85 fuel.

Woody Barth, ND Farmers Union, distributed a handout and testified in support of HB 1478. Several questions were asked and responded to. Has there been an increase in ethanol usage over the years, without vehicle numbers out there will there really be an increase, whether it is possible for any vehicle to use this fuel, and is the nossal size different.

Brian Kramer, ND Farm Bureau testified in support of HB 1468 indicating this bill requires consumers to receive the credit.

Page 4

Senate Appropriations Committee

Bill/Resolution Number 1478

Hearing Date March 18, 2005

Questions asked included do you envision this as a short promotion tool, having had ethanol for many years in ND do you expect that usage to continue or has usage flattened out, how efficient are vehicles with E85 starting in cold winters, who gets the extra 5 cents now (freight), and concerns were raised about the impact on the oil industry.

Senator Thane checked on the local Stamart cost today and E85 is \$1.99.9 with this bill it will be \$179.9.

Senator Tallackson moved a DO PASS, Senator Thane seconded. Discussion was made. A roll call vote was taken with 13 yes, 1 no and 1 absent. The motion carried.

Chairman Holmberg closed the hearing.

Date _____
Roll Call Vote #: _____

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB

Senate SENATE APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 1478

Action Taken Do Pass

Motion Made By Tallackson Seconded By Thane

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	✓		SENATOR KRAUTER	✓	
VICE CHAIRMAN BOWMAN	✓		SENATOR LINDAAS	✓	
VICE CHAIRMAN GRINDBERG	✓		SENATOR MATHERN	✓	
SENATOR ANDRIST			SENATOR ROBINSON	✓	
SENATOR CHRISTMANN	.	✓	SEN. TALLACKSON	✓	
SENATOR FISCHER					
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER	✓				
SENATOR THANE	✓				

Total (Yes) 13 No 1

Absent 1

Floor Assignment From top

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

REPORT OF STANDING COMMITTEE (410)
March 18, 2005 2:06 p.m.

Module No: SR-50-5486
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1478, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1478, as amended, was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1478

TESTIMONY
To the
HOUSE FINANCE AND TAXATION COMMITTEE
Of the
NORTH DAKOTA LEGISLATURE

RE: HOUSE BILL 1478

By Jocie Iszler
Executive Director: North Dakota Corn Utilization Council
January 25, 2005

Chairman Belter and Members of the Committee:

Thank you for this opportunity to submit testimony on House Bill 1478. I am here today to urge your DO PASS vote on this bill that provides for a reduced motor vehicle fuels tax rate for sales of E85 fuel in North Dakota.

E85 fuel is a blend of 85% ethanol and 15% gasoline. It is designed for use in flexible fuel vehicles that can run on any blend of ethanol and gasoline. Engines of flexible fuel vehicles are designed with a computer chip that adjusts to the oxygen content of the fuel. Currently, there are over 10,000 flexible fuel vehicles licensed within the state of ND. Surveys of gasoline usage indicate that the average fuel use per year for a flexfuel vehicle would be 1800 gallons per year. If every flexfuel vehicle in ND used only E85 this would amount to 18 million gallons of E85 or 15.3 million gallons of ethanol. Only 110,000 gallons of E85 were sold in ND this year which is equivalent to only 81 flexible fuels vehicles per year regularly using E85.

North Dakota currently produces 35 million gallons of ethanol between the two ethanol plants in Grafton and Walhalla. It is estimated that based on a total fuel usage of 400 million gallons of gasoline sold per year in ND and a market share of 30% of those gallons containing 10% ethanol that a total of 12 million gallons of ethanol are used within the state of ND per year. Therefore, roughly only 28% of the total gallons of ethanol produced within the state are used within the state. If plans for a 50 million gallon per year plant in Richardton and a 40 million gallon per year plant in Valley City materialize, ND will produce 130 million gallons of ethanol per year. If usage does not increase, only 8% of the total gallons produced in state will be used in state. In contrast the Tesoro refinery produces roughly 425 million gallons of gasoline which means that there is an instate market for 84% of Tesoro's production.

Currently, E85 fuel is offered at 5 stations in North Dakota. A total of 110,000 gallons was sold in 2004. In contrast Minnesota has 100 stations and South Dakota has 18 stations. South Dakota's total ethanol production is 420 million gallons per year. South Dakota's market share for E10 is 55%. Minnesota produces 535 million gallons of ethanol per year. Due to Minnesota's oxygenate standard 97% of the gallons of gasoline in Minnesota contain 10% ethanol. In addition, the 100 stations selling E85 use 2.7 million gallons per year. Therefore, 80% of the ethanol gallons produced in Minnesota and 55% of the ethanol gallons produced in South Dakota are used within the state. This is in contrast to

28% of North Dakota produced ethanol being used within the state. South Dakota's higher usage of all blends of ethanol can be attributed to tax incentives that result in lower prices at the pump in South Dakota. The gas tax for E10 is 2 cents less per gallon than for unblended gasoline in South Dakota. In addition, the gas tax for E85 is 10 cents per gallon less than for unblended. In North Dakota, the gas tax is the same for all blends of gasoline. In Minnesota the dramatic growth in the E85 market can be attributed to a cooperative agreement between a few ethanol plants and petroleum retailers to pass on a significant portion of the 52 cents per gallon federal blenders credit thereby enabling the 100 stations to offer E85 at 20 cents under Minnesota's 89 octane gasoline.

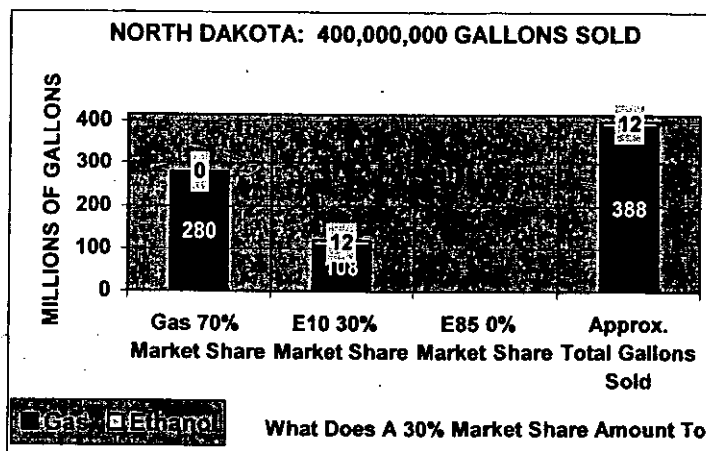
The three factors that influence E85 use are owner education that they drive a flexible fuel vehicle, availability of the fuel and price. The ND Corn Council committed \$40,000 in resources to building infrastructure and advertising E85 in FY 03 and will do the same in FY04. This advertising directs drivers to the existing E85 stations in ND that offer E85 for 20 cents under the price of regular gasoline, directs drivers to the North Dakota Corn Council's website, and advises drivers to look inside the fuel door of their vehicle for the flexible fuel identification information. The ND Corn Council pledges \$100,000 over the next biennium for promotion and education of E85.

The ND Corn Council urges the state of ND to participate in this innovative approach to jump starting a fledging market by committing sufficient resources to allow E85 to gain a firm position in the market place. The ND Corn Council requests a commitment of \$250,000 to off set tax revenue losses from a 20 cent per gallon reduction in the gas tax in order to encourage North Dakotans to purchase 1.2 million gallons of E85 at a price up to 40 cents less than regular, unblended gasoline. The ND Corn Council also strongly encourages this legislation to state that the intent of this legislation is to encourage market development through attractive pricing. For this objective to be met the tax break must be passed on by the retailer to the consumer.

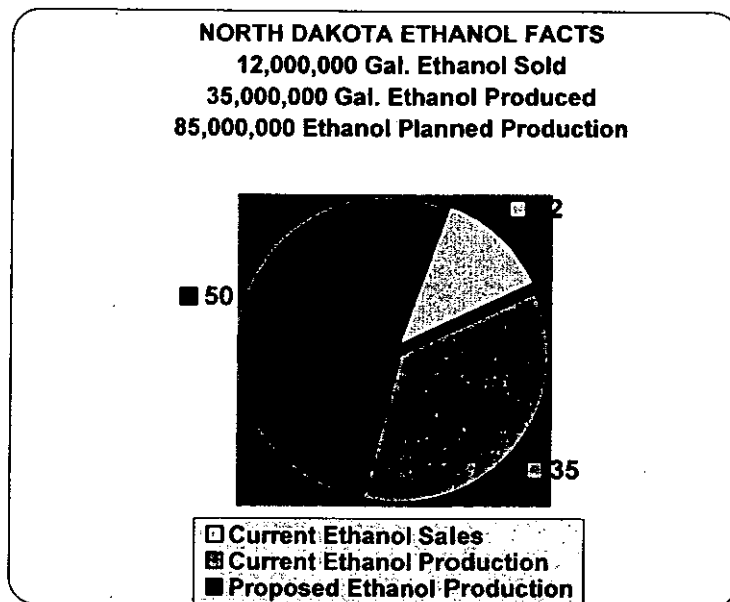
The ND Corn Council represents the marketing interests of ND Corn Growers who support the promotional check off program. Strong instate use of ethanol use is attractive to prospective ethanol builders and investors because there are local markets for their product. One 40 million gallon ethanol plant will use 14 million bushels of corn and add an average of 10 cents per bushel to the local market for corn. This alone amounts to \$1.4 million in additional farm income. A 40 million gallon plant adds 700 new permanent jobs, generates almost \$20 million in household income and \$1.2 million in tax revue, and has a local economic impact on a local economy of \$110 million. Studies also indicate that ethanol extends our tight fuel supply and saves the consumer 6 cents per gallon. Economic impact studies indicate that for every one dollar that Minnesota invested in their ethanol industry that \$14 was returned in economic development.

In summary, Mr. Chairman and members of the committee, the ND Corn Council encourages your DO PASS on this bill because development of the ethanol industry in ND is good for ND agriculture and North Dakota's economy.

Good morning Chairperson Belter and Members of the House Committee. My name is Kent Satrang, I live in north Fargo and I am the General Manager of Cenex Petro Serve in Fargo and Moorhead. I am in support of House Bill 1478. We have locations In Moorhead and Dilworth MN, and Fargo, West Fargo, Casselton, Arthur and Leonard in North Dakota. Our total gasoline volume is approximately 2% of the states total 400,000,000 gallons of gasoline sales. In 2005 we will pay around \$2,000,000 in petroleum taxes to North Dakota. Currently about 40% of our pump sales contain an ethanol blend. We offer E10 at all of our stores and sell E10 and Unleaded Gasoline for the same street price. We've offered E85 in our Moorhead Store for four years now.



As I mentioned, North Dakota sells about 400,000,000 gallons of motor fuel ("gasoline"). Of that it is proudly said that we have a statewide 30% market share that belongs to ethanol or E10. This 30% amounts to 120,000,000 gallons. However, E10 is blended at a 10% ethanol blend and so it amounts to only 12,000,00 ethanol gallons and 388,000,000 gasoline gallons.

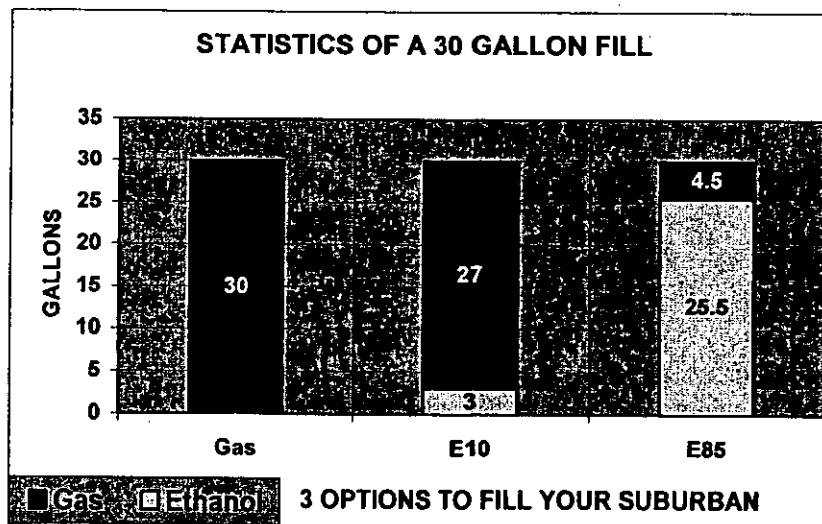


The states two current ethanol plants produce 35,000,000 gallons of ethanol. A new plant like Richardton is projected to produce around 50,000,000 additional gallons. That would mean that without enhancing the current market nearly 86% of the states ethanol production would have to be exported without the pipeline infrastructure that the traditional petroleum industry enjoys.

Recent events convinced us at Cenex Petro Serve to put E85 in a Fargo and West Fargo Stores

- With the war in Iraq, our nations and our states soldiers are fighting for freedom. The need to lesson our dependence on foreign oil has never been more critical.
- The opportunity for economic development in rural North Dakota communities like the Richardton Ethanol Plant as well as Grafton and Walhalla is needed to grow jobs.
- E85 is environmentally friendly with a nearly 30% reduction in greenhouse gases.
- The opportunity for an increase of the 134,000,000 bushels of North Dakota corn and the economic impact that this has on agricultural business across the state
- The opportunity to see a partnering between the oil industry and our farmers thru Ethanol Production Plant ownership and with E10 and E85 wholesale marketing opportunities.
- The opportunity to successfully market the product with North Dakotas Go E campaign
- We took advantage of a National Ethanol Vehicle Coalition Fund that received input from the state of ND and we put in the equipment to market, promote and sell E85.

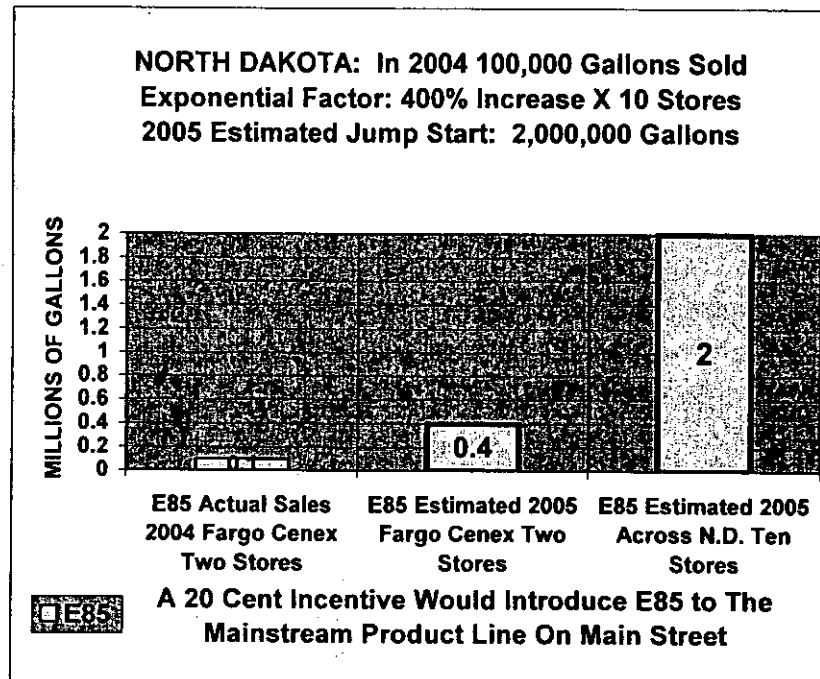
We currently buy E85 at 20 cents less cost than the rack price for unleaded gas. We in turn sell E85 for 20 cents less than our street posted unleaded gas. Today there are 10,000 ND vehicles that burn E85. The perception is that you lose about 5% in gas efficiency so that is roughly 10 cents loss per gallon on \$2.00 gas. A 20-cent incentive would allow E85 its much needed jump-start. The potential for sales is truly exponential. Think of all the people you know that drive Chevrolet Suburbans and Tahoes. When they fill with gasoline they use no ethanol, if they fill E10 they use a 10% ratio of ethanol. But if they fill with 30 gallons of E85, they'll use 25.5 gallons of ethanol.



I have managed Cenex Stations for 25 years and I am certain of these predictions:

- ✓ If you offer E85 for 40 cents less the consumer will figure out if his/her car is a FFV
- ✓ Those consumers with FFV's will switch to E85 without hesitation or need for TV ads
- ✓ An infrastructure of E85 pumps strategically located across the states major highways will spring-up without a need for tank funding. The consumer will demand E85 offerings. There are some very inexpensive ways to implement an E85 pump into current stations.
- ✓ A coordinated E85 marketing campaign by the ND Corn Growers and the Go E Campaign needs to educate and inform the consumer on the benefits of this locally grown fuel
- ✓ This critical Go E campaign will transition the consumer who has been using and now understands and likes E85 back to using it at a 20-cent savings. Our goal would be that it becomes a mainstream fueling option on Main Street of our North Dakota communities.

- ✓ I believe that our Fargo and West Fargo stores will see a minimum 400% increase in E85 sales totaling around 400,000 gallons. I also believe we would see the equivalent of a total of additional 10 stations and 2,000,000 gallons of E85 sales in 2005.



My hope is that you will see the potential and the vision that the sponsors of House Bill Number 1478 see. This is an opportunity to jump start E85 sales with an incentive. This is an opportunity to develop an infancy market for the additional volume that new ethanol facilities will create. I understand that the ratio of 20-cents to 1,000,000 gallons is \$200,000. I understand and I do appreciate that you represent me, and my neighbors and that you watch over the North Dakota tax dollars. I ask you to consider exercising your potential to make E85, a North Dakota grown fuel, a North Dakota manufactured fuel, as common at the neighborhood gasoline pumps as unleaded, super unleaded or premium. Help our Corn Growers, our rural communities, our environment and most importantly our soldiers to make this E85 legislation a reality that sends a message. You can make it possible to fill it up, with a fuel grown right here in North Dakota.

I concede that two million gallons of ethanol usage does not in itself make an ethanol plant viable, it doesn't bring the soldiers home by totally reducing our dependence on foreign oil. It's just an innovative start for an innovative state like North Dakota. Other states have wrestled with "choice" and the "free enterprise" arguments of an E10 mandate. This is a different way to spur the states economy, to spur ethanol sales, to give our citizens the chance and the choice to reach for a North Dakota grown fuel nozzle. I congratulate North Dakota's Lawmakers for bringing the idea forward. I promise you that if this bill is passed, I will do my part to successfully implement it in the marketplace and that Fargo station owners will pass on the 20-cent tax reduction.

Thank you for the opportunity to testify and I ask you to support House Bill number 1478.

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

Testimony of Roger Johnson
Agriculture Commissioner
HB 1478
House Finance & Taxation Committee
Fort Totten Room
January 25, 2005

*Same given to
Senate Finance
& Taxation*

Chairman Belter and members of the House Finance & Taxation Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of HB 1478, which provides new tax incentives for the support of ethanol, specifically fuel blends containing at least 85% ethanol, in North Dakota.

Renewable Energy: Great Potential for North Dakota

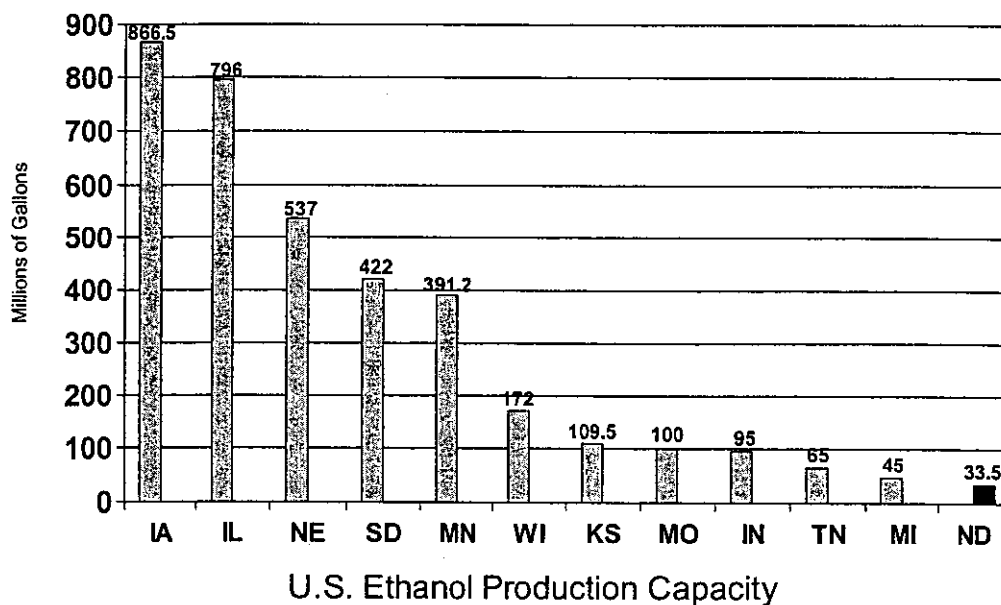
As a leading producer of soybeans and corn, North Dakota has great potential for the development of ethanol and biodiesel industries that would add further value to these commodities. The production of ethanol and biodiesel not only produces fuel, but co-products that can be used to feed our growing livestock industry.

North Dakota's two existing ethanol plants have a combined annual production capacity of approximately 34 million gallons per year. Alchem in Grafton came on line in 1985 and ADM in

Walhalla came on line in 1987. Three other projects are in various stages of planning and development in the northwest, southwest and eastern parts of the state.

Again, North Dakota lags far behind in the development of this industry. We rank 12th in the nation in the production of ethanol (See Figure 1).

ND Ranks 12th in the U.S.



Source: Renewable Fuels Association, February 2004.

Figure 1

We not only lag behind other states in production of ethanol, but in consumption. The North Dakota Corn Growers Association estimates that nearly 30% of the fuel sold in North Dakota is an ethanol blend – that compares with 65% in South Dakota and more than 90% in Minnesota.

South Dakota provides an at-the-pump 2¢ tax incentive, which can sometimes make ethanol-blended gasoline as much as 6¢ cheaper per gallon than regular unleaded gasoline.

In 1991, the Minnesota State Legislature passed legislation requiring a year-round 2.7% minimum oxygen content for gasoline sold in the Twin Cities by 1995, with the entire state meeting the requirement by 1997. Today, ethanol replaces almost 10% (240,000,000 gallons) of the gasoline sold in Minnesota. Further, two new ethanol plants came on line in 1995 and since that time ten additional facilities have either been built or expanded. Twelve of the fourteen existing ethanol plants are organized in a cooperative fashion and are owned by over 8,000 farmers.

Renewable Energy Holds True Economic Opportunity for North Dakota

Farmers and ranchers certainly stand to benefit from the development of renewable energy. According to the "Ethanol and the Local Community Study" conducted by AUS Consultants/SJH & Company (June 20, 2002), "...a 40 MGY ethanol plant will generate...additional revenue for local grain farmers by increasing demand, which in the case of corn, in most circumstances results in an increase to the average local basis of an estimated 5 to 10 cents per bushel."

And according to the Minnesota Department of Agriculture, processing corn products instead of exporting raw corn doubles the value of each bushel. In addition, ethanol plants not only produce fuel ethanol, they also produce a large quantity of co-products which can benefit other sectors of

our economy. Livestock can be fed the high-protein feed that is a major co-product in ethanol production. Other co-products include: carbon dioxide, starch, sweeteners and industrial ethanol.

Farmers and ranchers aren't the only ones to profit from the development; consumers and the state coffers will also reap economic dividends.

The Minnesota Department of Agriculture estimates that the total economic impact of the ethanol facilities operating in state to be in excess of \$580 million per year. The Iowa Department of Natural Resources estimates that ethanol production generates more than \$1.7 billion in economic activity and adds approximately \$730 million to the value of the state's corn crop each year. Ethanol demand boosts Iowa's state and local tax receipts by \$111 million (Source: www.iowadnr.com – 1/24/05)

North Dakota Can and Should Do More to Promote Renewable Energy

Elected officials on both sides of the aisle continually pledge their support for and speak to the benefits of value-added agriculture. I believe that it is time to put action behind the words. If we are truly looking to add value to agricultural products in this state and to encourage new markets and new products, we in government have to be willing to play an appropriate role to foster that process.

In 2003, the North Dakota Department of Agriculture organized the first-ever 2003 Renewable Energy Summit: *A Vision for the Future*. The focus of that conference was to bring together all of the interests in four major renewable energy sectors – biodiesel, biomass, ethanol and wind – to formulate a vision and a plan of action for the future.

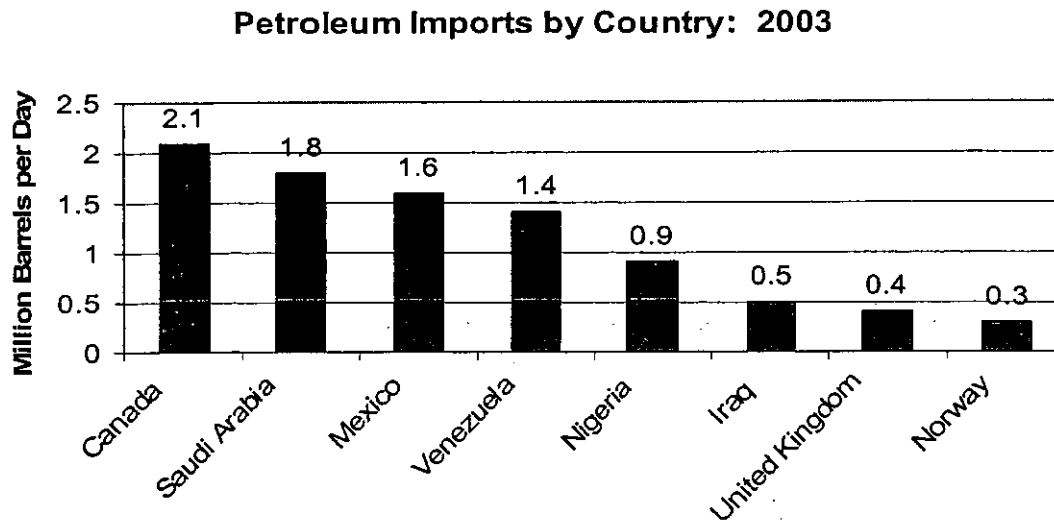
A recommendation from that summit was to create an ongoing coalition of renewable energy interests that could work to advance issues and initiatives that would foster the growth of the industry. That recommendation led to the creation of the North Dakota Renewable Energy Partnership (NDREP). The NDREP has 41 general and associate members, including the North Dakota Department of Agriculture.

The NDREP, along with my office, organized a second summit – the 2004 Renewable Energy Summit: *A Call to Action*, which was held on December 6-7, 2004. The summit participants were challenged to formulate state legislative ideas and initiatives – many of which are encompassed in HB 1308 and other pieces of renewable energy legislation before you this session. The NDREP has been working with legislators on both sides of the aisle to try and advance renewable energy legislation that will have a meaningful impact in North Dakota.

Renewable Fuels Can Help Decrease Dependence on Foreign Oil

I also believe that we must do more as a state and as a country to decrease our dependence on foreign oil today. The United States currently imports 61% of our oil supply versus 36% during the energy crisis that began in 1973 (Source: Energy Information Administration/Annual Energy

Review 2003). Canada, Saudi Arabia and Mexico are the leading exporters of oil to the United States (Figure 2).

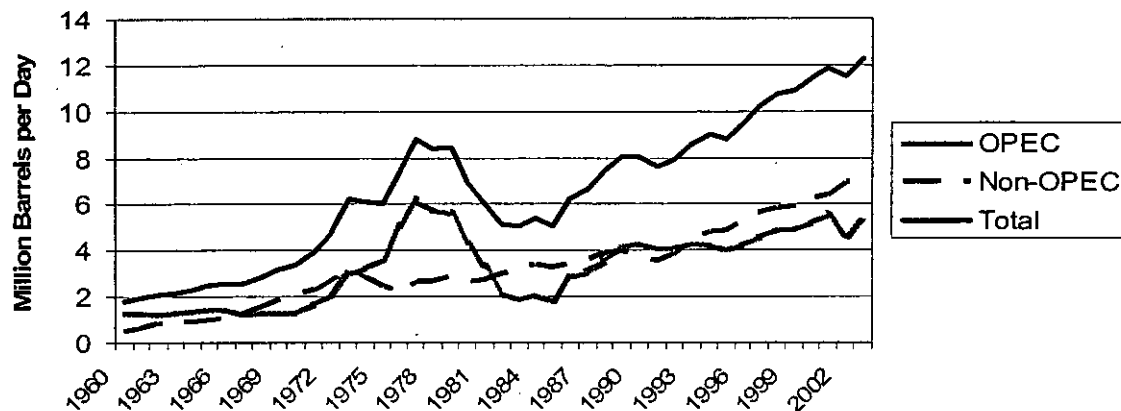


Source: Energy Information Administration/Annual Energy Review 2003

Figure 2

The stability of these imports seems questionable, especially during this time of crisis in the Middle East. Figure 3 demonstrates our enormous dependence on oil imports from OPEC countries.

Petroleum Imports - Total, OPEC and Non-OPEC, 1960-2003.



Source: Energy Information Administration/Annual Energy Review 2003

Figure 3

We can and must do more to promote the production and use of renewable fuels such as ethanol and biodiesel. The US marketplace is too often overlooked by agriculture as we focus on acquiring new international markets. Biodiesel and ethanol are great examples of new demand for agricultural commodities as opposed to displaced demand often resulting from new international markets. Both are important, but new demand results in a bigger pie, not just a bigger piece of the old pie.

HB 1478: A Step in the Right Direction

HB 1478 provides additional tax incentives to the ethanol industry by promoting the increased use of ethanol blends of at least 85% ethanol.

The opportunities are right in front of us. We produce an abundance of corn and soybeans for biofuels and we are growing our cattle industry to eat the co-products resulting from biofuel production.

For years, we've produced the world's best commodities – only to see them shipped elsewhere and have others seize the profits from processing them. We can watch as others benefit from this significant economic development these industries bring. And we can watch as our young people leave to take the jobs created by these facilities in other states. Or, we can do something about it.

We can promote and develop these resources ourselves. We can enjoy all of the benefits of new economic development and new jobs. We can create entire new industries that will benefit not only North Dakota, but the entire nation.

Chairman Belter and committee members, I urge a do pass on HB 1478. I would be happy to answer any questions you may have.

Frequently Asked Questions

Why should we use ethanol?

Besides its superior performance characteristics, ethanol burns cleaner than conventional gasoline; it is a completely renewable, domestically produced, environmentally friendly fuel that enhances the nation's economy and energy security. Today, the U.S. imports nearly 60% of its petroleum, and our overall consumption continues to increase. By supporting fuel ethanol and its use, U.S. motorists can help reverse that trend.

What happens when E85 is not available?

The flexible fuel vehicle (FFV) system allows the driver to use any combination of gasoline or ethanol -- from 100% unleaded gasoline to 85% ethanol. A driver can therefore use unleaded gasoline if E85 is not available.

What are the differences in an FFV compared to a regular gasoline-only model? Are different parts used?

The primary difference is the fuel sensor that detects the ethanol/gasoline ratio. A number of other parts on the FFV's fuel delivery system are modified to be ethanol-compatible. The fuel tank, fuel lines, fuel injectors, computer system and anti-siphon device have been modified slightly. Alcohol fuels can be more corrosive than gasoline therefore; fuel system parts have been upgraded to be ethanol compatible.

Does an FFV cost more than a gasoline-only model?

When manufacturers offer a flexible-fuel engine as an option in their vehicles, there is little to no additional cost. In model year 1998, manufacturers began making flexible-fuel engines standard equipment on certain makes and models.

What is the range of a flexible-fuel ethanol vehicle?

Ethanol has a lower energy density than conventional gasoline. However, E85 also has a much higher octane rating (100+) than gasoline. FFVs are "flexible" and not dedicated to E85 and some drivers may experience a 5% to 15% drop in fuel economy. However, you'll find the economic, environmental and energy security benefits of E85 outweigh any variation.

The fuel economy of any vehicle will vary with temperature, road conditions, driving habits and other factors. For comparison purposes, aggressive driving habits can result in a 20% loss and low tire pressure can reduce mileage by 6%.

What does it take to convert a gasoline or diesel tank to store E85?

1. Pump out gasoline or diesel from underground tank.
2. Clean out gasoline or diesel and any water/sludge on tank bottom.
3. Add 100 gallons of E10 gasoline.
4. Pump out all E10 and any remaining residue.
(Steps 5 and 6 may not be necessary, but are provided here as a suggestion.)
5. Add 500 gallons of E10 gasoline.
6. Sell the 500 gallons of E10 gasoline.
7. Install E85-compatible non-aluminum nozzle (nickel-plated or steel); compatible breakaways and Teflon-lined hose with stainless steel ends/fittings to pump.
8. Install 1-micron (instead of 10-micron gasoline) dispenser filters.
9. Decal pump with E85 logos, cautionary statement and orange/black Federal Trade sticker. Also, please use E85 nozzle cover, pump topper and hose hangtags as needed to train customer behavior and to promote the new product. Display price of E85 on price marquee.
10. Drop in the first load of E85 (minor blending with remaining gasoline is acceptable).

Consult your local and state equipment regulations and your equipment vendor when modifying any refueling station. Typically, the cost of the above conversion process is less than \$1000.

What is the price of E85?

E85 prices vary by the market being considered. Typically, E85 is competitive with gasoline. However, as is the case with all forms of fuel, the larger the network of fueling outlets, typically, the more competitively priced is the fuel.

Is E85 more toxic or dangerous than gasoline?

No. 100% ethanol can be and is ingested by human beings. The fuel ethanol must be "denatured" or poisoned with gasoline or a bitter agent to prevent ingestion. Also, ethanol does not contain the same harmful carcinogens and toxins found in gasoline.



"E85 is a clean, practical, alternative fuel made from the ultimate renewable resource...American corn."

Ever wish America didn't depend on the Middle East for oil imports? Ever wish there was an alternative to gasoline? There is. **It's called E85.** E85 is a clean, practical, alternative fuel made from the ultimate renewable resource...American corn. E85 is 85% ethanol, distilled from corn, and only 15% gasoline. By fueling with E85, motorists can help reverse the trend toward greater Middle Eastern oil imports. We've got an abundant supply of clean-burning, high performing, renewable fuel right here in the U.S.

E85 is a high-octane fuel, produced by the fermentation of plant sugars. Today, U.S. ethanol producers currently have the capacity to produce more than 2 billion gallons each year. With more plants under construction, ethanol producers are poised to keep pace with the rapidly increasing demand for E85. Think about it—corn grown by Americans, processed by Americans, fueling Americans' cars.

One bushel of corn produces 2.7 gallons of ethanol in addition to several valuable co-products. Using only the starch from the corn kernel, the fermentation process leaves behind nearly all of the valuable vitamins and protein for use in other products such as gluten feed and gluten meal. The gluten is then fed to livestock, adding even more value to our nation's large corn crop.

E85
85% Ethanol

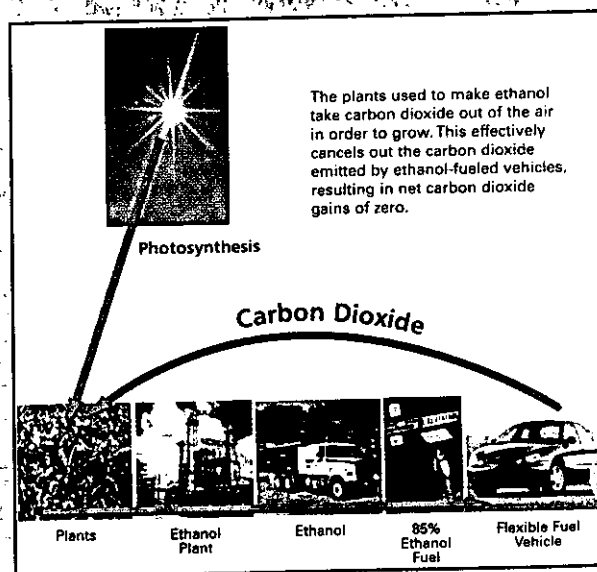
E85 CAN REDUCE POLLUTION

Government tests have shown that E85 vehicles reduce harmful hydrocarbon and benzene emissions when compared to vehicles running on gasoline. Ethanol fuel can also reduce carbon dioxide, a major contributor to global warming. Although carbon dioxide (CO_2) is released during ethanol production and combustion, it is recycled as a nutrient to the crops that are used to produce it. Ethanol is also nontoxic, water soluble and biodegradable.

Plants are able to absorb CO_2 and give off oxygen through a process called photosynthesis. Carbon is the key element in the chemical structure of plants and animals.

Fossil fuels were formed from prehistoric plants and animals that transformed into impound carbon. The consumption of fossil fuels circumvents the carbon cycle because it releases carbon that has been locked away by nature without providing a way to reabsorb it.

Conversely, ethanol works with the earth's carbon cycle. Much of the CO_2 that is released when plants like corn are converted into ethanol and burned in automobiles is recaptured when new plants are grown to reproduce more ethanol.

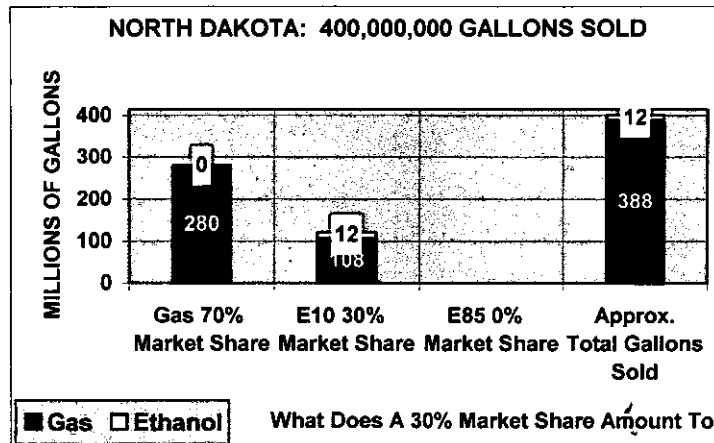


TESTIMONY
TO THE
SENATE FINANCE AND TAXATION COMMITTEE
OF THE
NORTH DAKOTA LEGISLATURE

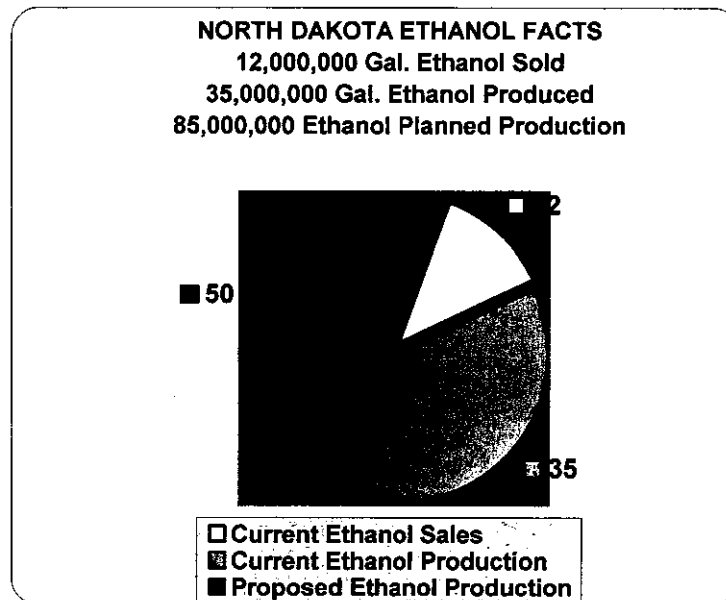
RE: HOUSE BILL 1478

TESTIMONY
BY
KENT SATRANG
GENERAL MANAGER, CENEX PETRO SERVE
MEMBER, NORTH DAKOTA CORN UTILIZATION COUNCIL
MARCH 08, 2005

Good morning Chairperson Urlacher and Members of the Senate Committee. My name is Kent Satrang, I live in north Fargo and I am the General Manager of Cenex Petro Serve in Fargo and Moorhead. I am in support of House Bill 1478. We have locations In Moorhead and Dilworth MN, and Fargo, West Fargo, Casselton, Arthur and Leonard in North Dakota. Our total gasoline volume is approximately 2% of the states total 400,000,000 gallons of gasoline sales. In 2005 we will pay around \$2,000,000 in petroleum taxes to North Dakota. Currently about 40% of our pump sales contain an ethanol blend. We offer E10 at all of our stores and sell E10 and Unleaded Gasoline for the same street price. We've offered E85 in our Moorhead Store for four years now.



As I mentioned, North Dakota sells about 400,000,000 gallons of motor fuel ("gasoline"). Of that it is proudly said that we have a statewide 30% market share that belongs to ethanol or E10. This 30% amounts to 120,000,000 gallons. However, E10 is blended at a 10% ethanol blend and so it amounts to only 12,000,00 ethanol gallons and 388,000,000 gasoline gallons.

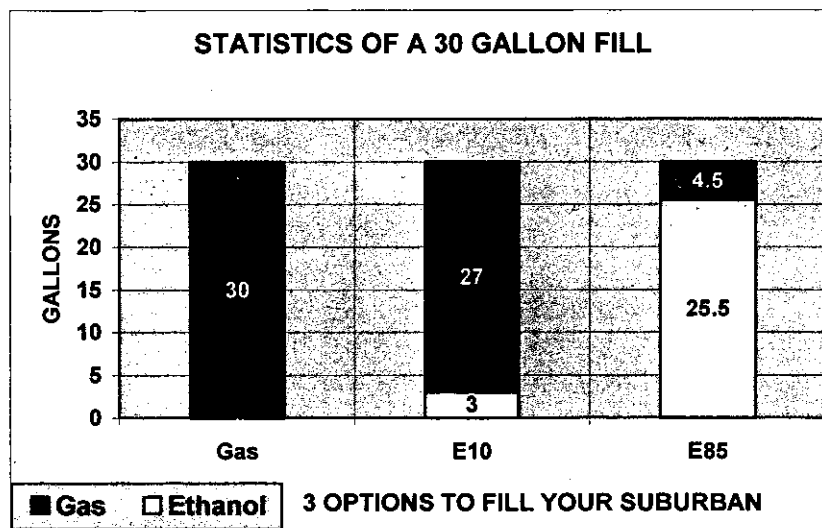


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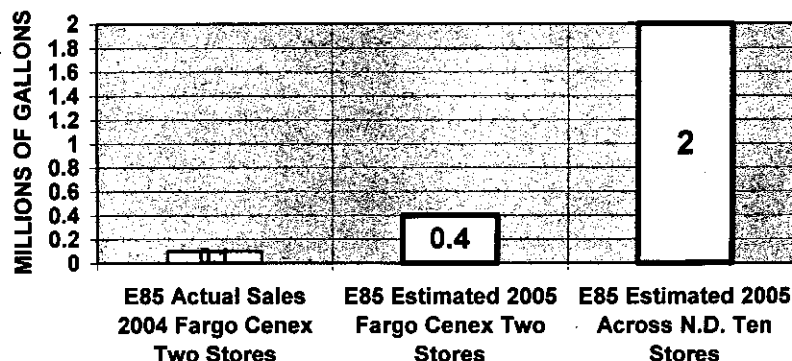
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NORTH DAKOTA: In 2004 100,000 Gallons Sold
Exponential Factor: 400% Increase X 10 Stores
2005 Estimated Jump Start: 2,000,000 Gallons



☒ E85

**A 20 Cent Tax Reduction Would Introduce E85 To
The Mainstream Product Line On Main Street**

My hope is that you will see the potential and the vision that the sponsors of House Bill Number 1478 see. This is an opportunity to jump start E85 sales. This is an opportunity to develop an infancy market for the additional volume that our states new ethanol facilities will create. I understand that the ratio of 20-cents to 1,250,000 gallons is \$250,000. I understand and I do appreciate that you represent me, and my neighbors and that you watch over the North Dakota tax dollars. I ask you to consider exercising your potential to make E85, a North Dakota grown fuel, a North Dakota manufactured fuel, as common at the neighborhood gasoline pumps as unleaded, super unleaded or premium. Help our Corn Growers, our rural communities, our environment and most importantly our soldiers to make this E85 legislation a reality that sends a message. You can make it possible to fill it up, with a fuel grown right here in North Dakota.

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Thank you for the opportunity to testify and I ask you to support House Bill number 1478.

E85 Vehicle Identification

Currently, auto manufacturers are not identifying E85 vehicles with logos on the rear or side panels of vehicles, so you could be driving an E85 vehicle and not know it! If you are, you can be taking advantage of the \$.10 to \$.20 less per gallon price that E85 fuel offers. (Depending on station pricing) Cenex at I-29 and Main Avenue in Fargo, 13th Ave East in West Fargo, Main Avenue in Moorhead and Cenex Farmers Union in Devil's Lake all offer E85 for \$.20 less per gallon than regular unleaded fuel.

Although E85 owners see about a **5% mpg decrease in fuel economy (10 cents on \$2.00 Gas)**, they are compensated with the decrease in fuel price, and the fact that E85 burns cleaner and is a renewable resource made from corn right here in the upper midwest! To find out if you are driving an E85 vehicle, **check inside your gas cap door**, owners manual, or check your vehicle identification number (VIN). To find out VIN numbers and a list of E85 vehicles click here www.alamn.org/outdoor/e85.asp.

E85 and Flexible Fuel Vehicles (FFVs)

E85 is comprised of **85% ethanol and just 15% petroleum**. Ethanol can be made from virtually any starch feedstock, such as sugar, wheat or milo. Today, U.S. ethanol is produced mainly from corn, an abundant and renewable source. **A bushel of field corn will yield** 1.6 lbs of corn oil, 10.9 lbs of high protein feed (distillers dried grains or DDG), 2.6 lbs of corn meal and 31.5 lbs of starch—which can be converted to beverages, sweeteners or **2.7 gallons of fuel ethanol**. Some Minnesota ethanol producers are running at even higher efficiencies.

E85 has many benefits as a **renewable energy source**. It helps reduce tailpipe and greenhouse gas emissions while supporting the economy and reducing overseas oil imports.

E85 is **environment-friendly**. It has the highest oxygen content of any fuel available today, making it burn more completely (cleaner) than gasoline. E85 contains **80% less** gum-forming compounds, like the olefins found in gasoline. Production and use of E85 results in a **nearly 30%** reduction in greenhouse gas emissions. More than 100 major U.S. cities suffer from unhealthy levels of smog. E85 may be able to help. U.S. Environmental Protection Agency (EPA) studies have shown that high-blend ethanol fuels can reduce harmful exhaust emissions by more than 50 percent and smog-forming pollution by 15% or more.

E85 FFV's are "flexible" and not yet dedicated to E85. E85 also contains less energy per gallon than gasoline. Typically, its lower pump price offsets a slightly lower fuel economy.

E85 Flexible Fuel Vehicles (FFVs) Over 10,000 In North Dakota

Ford Motor Company

Selected 2002-2005 4.0L Explorers
Selected 2004-2005 4.0L Explorer Sport Trac
Selected 1999-2003 3.0L Ranger trucks
Selected 2000-2005 3.0L Taurus sedans / wagons
Selected 1995-1999 3.0L Taurus sedans

Daimler Chrysler

Selected 2004-2005 4.7L Dodge Ram 1500 truck
Selected 2003-2005 2.7L Chrysler Sebring Sedan
Selected 2003-2005 2.7L Dodge Stratus Sedans
Selected 2003-2005 3.3L Caravan Cargo vans
All 1998-2003 3.3L Caravan minivans
All 1998-2003 3.3L Voyager minivans
All 1998-2003 3.3L Town & Country minivans

General Motors

All 2002-2005 5.3L Suburbans, Tahoes, Yukons,
Yukon XLs

Selected 2002-2005 5.3L Sierra and Silverado
trucks (code 5E5 for ordering)

All 2000-2002 2.2L Chevy S-10 truck after 12/99
All 2000-2002 2.2L Sonoma trucks after 12/99

Isuzu

All 2000-02 Isuzu 2.2L Hombre trucks after 12/99

Mazda

Selected 1999-2002 Mazda 3.0L B3000 trucks

Mercedes

Selected 2003-05 3.2L Mercedes C320 Series
Selected 2005 2.6L Mercedes C240 Series

Mercury

Selected 2002-2005 4.0L Mountaineer
Selected 2001, 2003-2005 3.0L Sables

Nissan

Selected 2005 5.6L Titan trucks

TESTIMONY
To the
SENATE FINANCE AND TAXATION COMMITTEE
Of the
NORTH DAKOTA LEGISLATURE

RE: HOUSE BILL 1478

By Jocie Iszler
Executive Director: North Dakota Corn Utilization Council

March 8, 2005

*same show
by Jocie Iszler
to the
Senate
Appropriations
Committee*

Chairman Urlacher and Members of the Committee:

Thank you for this opportunity to submit testimony on House Bill 1478. I am here today to urge your DO PASS vote on this bill that provides for a reduced motor vehicle fuels tax rate for sales of E85 fuel in North Dakota.

E85 fuel is a blend of 85% ethanol and 15% gasoline. It is designed for use in flexible fuel vehicles that can run on any blend of ethanol and gasoline. Engines of flexible fuel vehicles are designed with a computer chip that adjusts to the oxygen content of the fuel. Currently, there are over 10,000 flexible fuel vehicles licensed within the state of ND. Surveys of gasoline usage indicate that the average fuel use per year in ND is 1350 gallons per year. Only 110,000 gallons of E85 were sold in ND this year which is equivalent to only 81 flexible fuels vehicles per year regularly using E85.

North Dakota currently produces 35-39 million gallons of ethanol between the two ethanol plants in Grafton and Walhalla. It is estimated that based on a total fuel usage of 370 million gallons of gasoline sold per year in ND and a market share of 30% of those gallons containing 10% ethanol that a total of 11 million gallons of ethanol are used within the state of ND per year. Therefore, roughly only 28% of the total gallons of ethanol produced within the state are used within the state. In contrast the Tesoro refinery produces roughly 425 million gallons of gasoline which means that 84% of Tesoro's production could be sold within the state.

Currently, E85 fuel is offered at 5 stations in North Dakota. A total of 110,000 gallons was sold in 2004. In contrast Minnesota has 100 stations and South Dakota has 18 stations. South Dakota's total ethanol production is 420 million gallons per year. South Dakota's market share for E10 is 55%. With 13 operating plants and 3 plants under construction, Minnesota production capacity is 535 million gallons of ethanol per year. Due to Minnesota's law requiring the use 10% ethanol in nearly all blended gasoline, 97% of the gallons of gasoline in Minnesota contain 10% ethanol. In addition, the 100 stations selling E85 use 2.7 million gallons per year. Therefore, 80% of the ethanol gallons produced in Minnesota and 55 % of the ethanol gallons produced South Dakota are used within the state. This is in contrast to 28% of North Dakota produced ethanol being used within the state. South Dakota's higher usage of all blends of ethanol can be attributed to tax incentives that result in lower prices at the pump in South Dakota. The gas tax for E10 is 2 cents less per gallon than for unblended gasoline in South Dakota. In addition, the

gas tax for E85 is 10 cents per gallon less than for unblended. In North Dakota, the gas tax is the same for all blends of gasoline. In Minnesota the dramatic growth in the E85 market can be attributed to a cooperative agreement between a few ethanol plants and petroleum retailers to pass on a significant portion of the 52 cents per gallon federal blenders credit thereby enabling the 100 stations to offer E85 at 20-30 cents under Minnesota's 89 octane gasoline.

The three factors that influence E85 use are owner education that they drive a flexible fuel vehicle, availability of the fuel and price. The ND Corn Council committed \$40,000 in resources to building infrastructure and advertising E85 in FY 03 and will do the same in FY04. This advertising directs drivers to the existing E85 stations in ND that offer E85 for 20 cents under the price of regular gasoline, directs drivers to the ND Corn Council's website, and advises drivers to look inside the fuel door of their vehicle for the flexible fuel identification information. The ND Corn Council pledges \$100,000 over the next biennium for promotion and education of E85.

The ND Corn Council urges the state of ND to participate in this innovation approach to jump starting a fledging market by committing resources to allow E85 to gain a firm position in the market place. The ND Corn Council requests a commitment of \$250,000 to off set tax revenue losses from a 20 cent per gallon reduction in the gas tax in order to encourage North Dakotans to purchase 1.2 million gallons of E85 at a price up to 40 cents less than regular, unblended gasoline. The ND Corn Council is encouraged to see that this legislation states that the intent of this legislation is that the tax break be passed on by the retailer to the consumer.

The ND Corn Council represents the marketing interests of the ND Corn Growers who support the promotional check off program. Strong instate use of ethanol is attractive to prospective builders and investors because there are local markets for their product. One 40 million gallon ethanol plant will use 14 million bushels of corn and add an average of 10 cents per bushel to the local market. This alone amounts to \$1.4 million in additional farm income. A 40 million gallon plant adds 700 permanent new jobs, generates \$19.2 million in household income and \$1.2 million in state tax revenue, and has a local economic impact on a local economy of \$110 million. Studies also indicate that ethanol extends our tight fuel supply and saves the consumer 6 cents per gallon. Economic impact studies indicate that for every one dollar that Minnesota invested in their ethanol industry that \$14 was returned in economic development. A strong ethanol industry also supports a strong animal agriculture industry because for every one bushel of corn converted into 2.8 gallons of ethanol there is also the production of 18 pounds of distillers grains, a high protein, high energy animal feed.

In summary, Mr. Chairman and members of the committee the ND corn Council encourages your DO PASS on this bill because of development of the ethanol industry in ND is good for ND agriculture and North Dakota's economy.

**Testimony in support of HB1478
Scott Handy, President/CEO
Cass County Electric Cooperative, Inc.
Kindred, ND**

**Before the North Dakota Senate's Finance & Taxation Committee
March 8, 2005**

Mr. Chairman and members of the Senate's Finance and Taxation Committee, thank you for this opportunity to appear in support of HB1478. My name is Scott Handy and I'm employed by Cass County Electric Cooperative in Kindred, North Dakota.

Cass County Electric supports the use and continued development of E85 fuel in our state. We put this support into action in 2004 when we added five flexible fuel vehicles to our fleet as we retired older gasoline vehicles. Our plans call for five additional flexible fuel vehicles in 2005.

Our experience with these vehicles so far has been positive. We have put a total of 55,000 miles on them. 61% of the fuel that has gone into the vehicles has been E85. Although the miles per gallon has been less when compared to our E10 fleet, the lower cost per gallon for E85 has made the operating cost/mile of these vehicles about the same.

Our drivers report good performance of the vehicles, but are sometimes frustrated at the availability of E85 fuel around our service area. That's the reason only 61% of the fuel has been E85 – the other 39% of the time E85 was simply not available where fuel was needed.

It is our belief that HB1478 will make E85 not only more economical but also more widely available throughout our state. These reasons, along with the obvious benefits of using home-grown ag-based fuel and reducing our dependence on imported oil, are why we urge your DO PASS recommendation on HB1478.

North Dakota Farmers Union

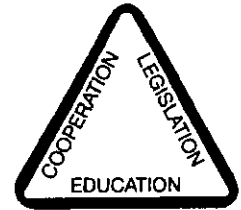
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HB 1478 S-FINTAX

Chairman Urlacher and Members of the Senate Finance and Tax Committee.

My name is Josh Kramer; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in support of HB 1478, which relates to a definition of E85 fuel; relating to reduced motor vehicle fuels tax rate for sales of E85 fuel, deposit of taxes on that fuel in the township highway aid fund, and to provide for transfer of funds to the highway tax distribution fund; and to provide an effective date.

Energy is vital to securing our nation's needs for food and fiber. This nation must establish a long-range national energy policy that emphasizes conservation and wise use of our energy resources. We must renew national efforts to reduce our reliance on imported energy and move toward greater energy self-sufficiency.

North Dakota Farmers Union supports a balanced, comprehensive energy policy which seeks energy independence for the United States, protects our nation's environment and recognizes the special needs of America's agricultural sector. In addition, a national energy policy must reverse the trend toward concentration of ownership and control of sources, production and distribution of energy.

In order to reduce our dependence on fossil fuels, development of renewable sources of energy must be a priority. This must include economic and technical assistance for family farmers wanting to transition into increased application of alternative forms of energy.

We are concerned over our dependence on nonrenewable and imported fuels that place our national security in jeopardy. Therefore, we encourage and support research and development of innovative and renewable energy sources such as the use of E-85 ethanol.

We support the expanded use of ethanol in North Dakota and we would like to urge you to support HB 1478, which takes us one step closer to achieving our overall goal of developing and expanding renewable energy in North Dakota.

Thank You, Chairman Urlacher and members of the committee.

TESTIMONY
To the
SENATE FINANCE AND TAXATION COMMITTEE
Of the
NORTH DAKOTA LEGISLATURE

RE: HOUSE BILL 1478

By Jocie Iszler
Chair: ND Renewable Energy Partnership
March 8, 2005

Chairman Urlacher and Members of the Committee:

Thank you for this opportunity to submit testimony on House Bill 1478. I am here today on behalf of the ND Renewable Energy Partnership to urge your DO PASS vote on this bill that provides for a reduced motor vehicle fuels tax rate for sales of E85 fuel in North Dakota.

It has been my privilege these past few months to serve as chair of the newly organized ND Renewable Energy Partnership. In less than a year this group organized bylaws, goals, a public policy committee and a broad based membership. This group is composed of a cross section of over 40 organizations representing both the public and private sector and has devoted enormous amounts of time and energy to promoting the development of renewable energy in ND. Attached is a list of the partnership's members. The membership ranges from private citizens to groups representing a large consistency such as Xcel Energy, ND Association of Rural Electric Cooperatives, and the ND Farmer's Union. The membership represents a significant portion of agricultural groups. However, the benefits of developing North Dakota's renewable energy industry positively affect every North Dakota citizen's life. Increased use of renewable energy means cleaner air for all ND citizen's not just farmers. And it will be all citizens, not just farmers, who will benefit from the higher paying jobs and additional state tax revenue from renewable energy industries. It is North Dakota citizens across the state, not just farmers, who support reducing our dependence on foreign oil. The partnership's vision is to transform North Dakota into the preeminent energy state in the national. As we all have heard, North Dakota's potential in renewable energy is great. However, vision and passion can only do so much in developing that potential. A corresponding degree of commitment of resources is necessary to fully develop that potential. If there is one unifying theme among all of the sectors represented in the partnership it is that we see our neighboring states, the rest of the nation, and the world racing ahead of us in renewable energy development. Public policy that drives decision making regarding the use of public resources is central to the development of a state's renewable energy industry. House Bill 1478 establishes that North Dakota has some degree of commitment toward the building of the ethanol market.

North Dakota Renewable Energy Partnership Membership List

General Members (voting members)

- Cass County Electric Cooperative
- Clean Water Fund/Clean Water Action
- Jamestown/Stutsman Development Corporation
- North Dakota Association of Rural Electric Cooperatives
- North Dakota Barley Council
- North Dakota Biodiesel Taskforce
- North Dakota Corn Growers Association
- North Dakota Corn Utilization Council
- North Dakota Department of Commerce
- North Dakota Department of Agriculture
- North Dakota Farmers Union
- North Dakota Natural Resources Trust
- North Dakota Soybean Growers Association
- North Dakota State University Ag & Biosystems Engineering
- National Ethanol Vehicle Coalition
- Northern Canola Growers Association
- Wind Energy Council
- Xcel Energy

Associate Members

- Bank of North Dakota
- BBI International
- Biodiesel Magazine
- Doug Goehring
- Dunn County Jobs Development Authority
- Energy & Environmental Research Center
- Ethanol Producer Magazine
- Farm Credit Services of Grand Forks
- Farm Credit Services of Mandan
- Golden Growers Cooperative
- Great Plains Institute
- Great River Energy
- Griggs Steel Empowerment Zone
- Industrial Contract Services
- Joseph Richardson
- North Dakota Soybean Council
- Northern Great Plains Research Laboratory
- Pamela Gulleason
- Rolla Job Development Authority
- Rutland Oil Co.
- S & S Transportation, Inc.
- USDA-Rural Development
- Wind Development Group LLC

HOUSE BILL 1478

Proposed Amendment: Establish a "sunset" clause.

Page 1, line 24, delete "After the"

Page 2, delete lines 1 through 3

Page 3, line 8, after "2005" insert "and through June 30, ~~200X~~, and after that date, is ineffective."

HOUSE BILL 1478

Proposed Amendment: Extend the "cut-off" date through the month following the month in which 1,200,000 gallons of E85 fuel has been reported on fuel tax reports received by the State Tax Commissioner.

Page 1, Line 24, delete After the

Page 2, delete Lines 1 – 3

Page 3, after "2005" add and through the month in which a cumulative total of 1,200,000 gallons of E85 fuel has been reported to the commissioner as provided by subsection 6 of Section 2, and is thereafter effective.

HOUSE BILL 1478

Proposed Amendment: Provide "cut-off" date to be forty-five (45) days after the month in which 1,200,000 gallons of E85 fuel has been reported on fuel tax reports received by the State Tax Commissioner.

Page 1, Line 24, delete After the

Page 2, delete Lines 1 – 3

Page 3, after "2005" add and through a period forty-five days after the month in which a cumulative total of 1,200,000 gallons of E85 fuel has been reported to the commissioner as provided by subsection 6 of Section 2, and is thereafter effective.

Good morning Mr. Chairman and members of the Senate Appropriations committee. For the record my name is John Schneider and I'm here today as the Executive Director of the Agricultural Products Utilization Commission (APUC). APUC supports HB 1478.

Given that APUC is identified as the funding source for the legislation, I am here to review our budget and pending legislation that stands to affect how APUC functions.

As many of you know APUC is a granting agency for value added businesses within the Department of Commerce. Its mission is to assist companies/individuals that add value to a ND agricultural product. We currently have five grant categories within APUC. They are:

- Farm diversification
- International marketing
- Prototype development
- Basic and applied research, and
- Marketing and utilization grants

To date this biennium we have granted over \$1.2 million dollars to 60 value-added projects throughout ND.

APUC is funded through a general fund appropriation of \$1.1 million dollars and about \$400,000 from the gas tax refund. Thus, we have about \$1.5 million dollars to give out in a biennium, or about \$750,000 in a fiscal year. APUC meets quarterly and receives any where from half a million to over a million dollars in requests. Over the years we have been able to spread the dollars out and fund worthy projects at requested amounts.

However, currently in the legislature there are several pieces of legislation pending that, if passed, would affect APUC and how it operates.

HB 1519 would add a technology grant category.

SB 2147 would add nature based tourism and technical assistance grant categories.

SB 2018 requires APUC to grant a private company doing research on scab \$100,000.

And none of these bills add any additional appropriation. If these bills pass APUC will have more requests of our limited dollars and we will be forced to fund projects at lower levels or not at all.

There is no question that APUC supports this bill and indeed the ethanol industry as a whole. In fact, in the last four years the commission has granted over \$300,000 to potential ethanol projects that were considering starting up in ND. One of those projects, Red Trail Energy, recently announced they are moving forward to build an ethanol plant near Richardton.

As one of the last granting agencies in ND for value added business APUC believes it is important to remind the committee that by adding granting categories and earmarking

funding out of APUC you are essentially taking resources away from value-added projects at a time when those projects need it most.

Thank you for your time and I would be happy to answer any questions you may have.

North Dakota Farmers Union

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HB 1478

S-Aproprations

Chairman Holmberg and members of the Senate Aproprations Committee.

My name is Woody Barth; I am here representing North Dakota Farmers Union. I am here to testify in support of HB 1478, which relates to a of E85 fuel.

Energy is vital to securing our nation's need for food and fiber. This nation must establish a long-range national energy policy that emphasizes conservation and wise use of our energy resources. We must renew national efforts to reduce our reliance on imported energy and move toward greater energy self-sufficiency.

North Dakota Farmers Union supports a balanced, comprehensive energy policy which seeks energy independence for the United States, protects our nation's environment and recognizes the special needs of America's agricultural sector. In addition, a national energy policy must reverse the trend toward concentration of ownership and control of sources, production and distribution of energy.

In order to reduce our dependence on fossil fuels, development of renewable sources of energy must be a priority. This must include economic and technical assistance for family farmers wanting to transition into increased application of alternative forms of energy.

We are concerned over our dependence on nonrenewable and imported fuels that place our national security in jeopardy. Therefore, we encourage and support research and development of innovative and renewable energy sources such as the use of E-85 ethanol.

We support the expanded use of ethanol in North Dakota and we would like to urge you to support HB 1478, which takes us one step closer to achieving our overall goal of developing and expanding renewable energy in North Dakota.

Thank you Chairman Holmberg and members of the committee, I will answer any questions at this time.