

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on February 9, 2011, in Room 785 of the Docking State Office Building.

All members were present except:

Representative Stephen Alford-excused
Representative Phil Hermanson-excused
Representative Mike Slattery-excused

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Renaë Hansen, Committee Assistant

Conferees Appearing Before the Committee:

Representative Rick Billinger
Tom Tunnell, Kansas Association of Ethanol Processors
Mike Chisam, Kansas Ethanol
Tom Willis, Conestoga Energy Partners
Chris Standlee, Abengoa Bioenergy

Twenty-six including the attached list.

Hearing on:

HB 2122-concerning agricultural ethyl alcohol producer incentive fund.

Matt Sterling presented a memorandum (Attachment 1) explaining **HB 2122**. The bill would continue the transfer of funds to the new production account until 2018.

Questions were asked by Representatives: Vern Swanson and Don Hineman.

Proponents:

Representative Rick Billinger spoke in favor of **HB 2122** (Attachment 2), noting how Western Plain Energy benefitted from the fee fund to help them start their business.

Tom Tunnell, CEO and President, Kansas Association of Ethanol Processors, (Attachment 3) spoke in favor of **HB 2122**. He also introduced some of the other members of the Ethanol processing community that is here today in support of **HB 2122**.

Mike Chisam, General Manager, Kansas Ethanol, (Attachment 4) presented testimony in support of **HB 2122** noting the benefit that ethanol production has towards the economy of Kansas.

Tom Willis, CEO, Conestoga Energy Partners, (Attachment 5) offered testimony in favor of **HB 2122**. Mr Willis gave some specifics positive economic figures that the ethanol industry contributes to Kansas.

Chris Standlee, Executive Vice President, Abengoa Bioenergy, (Attachment 6), presented testimony in support of **HB 2122**. Mr Standlee noted the specific facilities that Abengoa is involved in, including: the ethanol plant in Hugoton and a new Cellulosic ethanol plant developed in Hugoton, Kansas that will derive ethanol from wheat stubble, corn stover, milo stubble, prairie grasses and similar nonfood items.

Written Proponents:

- Thomas Palace, PMCA (Attachment 7)
- Leslie Kaufman, President/CEO, Kansas Cooperative Council (Attachment 8)
- Brad Harrelson, Kansas Farm Bureau, (Attachment 9)
- Jere White, Kansas Corn Growers, Sorghum Producers (Attachment 10)

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 9:00 A.M. on February 9, 2011, in Room 785 of the Docking State Office Building.

Questions were asked and comments made by Representatives: Annie Kuether, Rob Bruchman, Stan Frownfelter, Don Hineman, Nile Dillmore, Joe Seiwert, Forrest Knox, Reynaldo Mesa, Mike Burgess, and Carl Holmes.

Tom Robb, Abengoa, and Mary Jane Stankiewicz helped to answer questions regarding questions asked by the committee.

The hearing on **HB 2122** was closed.

The next meeting is scheduled for February 11, 2011.

The meeting was adjourned at 10:36 A.M.

HOUSE ENERGY AND UTILITIES COMMITTEE

GUEST LIST

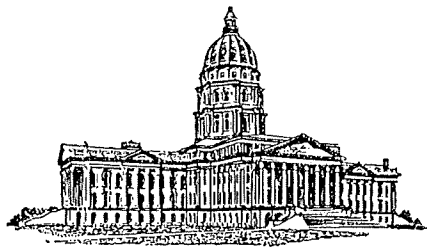
DATE: February 9, 2011

NAME	REPRESENTING
BROD HARRELSON	KCB
TOM DAY	KCC
Lon STANTON	NORTHERN NATURAL GAS Co
Tom Tunnell	Ks Union of Ethanol Producers
Steve Hottel	KE
Kimberly Sraty	GAFA
Doug Smith	Abengoa
Chris Standlee	Abengoa
Michael Chisam	Kansas Ethanol
Sarah Green	NDA
Thick Hatchers	Constoga Energy
Rich Bully	Rep
Phil WAGES	KEPCo
Ken PETERSON	KS Petroleum Council
Tom Robb	Abengoa Bioenergy
Cory Mohr	Commerce
Berend Koops	Hein Law Firm
Mary Jane Stankeewicz	KAEP
John De Donley	Ks Lusk Ass'n
Wes Ashton	Black Hills Energy

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Chairman Holmes and members of the House Energy and Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: February 9, 2011
Subject: House Bill 2122

HB 2122 amends K.S.A. 2010 Supp. 79-34,161 and 79-34,164 concerning the Kansas qualified ethyl alcohol producer incentive fund. From Fiscal Years 2005 through 2011, \$875,000 has been credited to the new production account of the fund on a quarterly basis. The bill would continue this transfer of moneys to the fund through 2018. The bill would also extend the provisions of K.S.A. 2010 Supp. 79-34,160 through 79-34,164, which are set to sunset on July 1, 2011, until 2018.

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ATTACHMENT 1

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
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(785) 296-7659
rick.billinger@house.ks.gov



DISTRICT ADDRESS
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BOX 594
GOODLAND, KS 67735
(785) 899-4700

RICK BILLINGER

121ST DISTRICT

GRAHAM, SHERIDAN, SHERMAN AND THOMAS COUNTIES

Western Plains Energy (WPE), began operations in January of 2004. WPE pays just over \$600,000 annually in property taxes and has a total payroll of close to \$3 million annually. These are direct impacts of WPE upon the local economy. They do not include the other industries and local communities that benefit from the presence of their operation.

Although Western Plains Energy will no longer benefit from the program, they do serve as a shining example of what good legislation can do. WPE benefited from this program. The assistance this program helped WPE get its feet on the ground and turn it into the company it is today. WPE has more than returned this investment from the state back in the form of income taxes, sales taxes, fuel taxes and property taxes. I encourage you to support the extension of the sunset period on this program.

Respectfully,

Rick Billinger, Representative, 121st District

HOUSE ENERGY AND UTILITIES

DATE: 2/9/2011

ATTACHMENT 2



Ethanol - *Made in Kansas*

Association Of Ethanol Processors

House Energy and Utilities Committee

February 9, 2011

HB 2122

Good morning, Chairman Holmes and members of the House Energy and Utilities Committee. I am Tom Tunnell and I am the CEO and President of the Kansas Association of Ethanol Processors. KAEP represents the major ethanol processors in Kansas.

We are here before you in support of HB 2122, the ethanol incentive fund bill. I am going to let these gentlemen seated behind me tell you all about why this bill is important to them, their ethanol plants and the rural communities in Kansas where these plants are located. However, before they get started I want to draw your attention to the map of Kansas that shows the ethanol plants. Kansas has 12 ethanol plants but, the one in Atchison does not produce fuel grade alcohol and instead produces food grade ethanol (i.e. alcohol). These ethanol plants produce over 500 million gallons of ethanol each year.

Thank you for your time and I will now turn it over to Mike Chisam, the President of our association to further go into this issue.

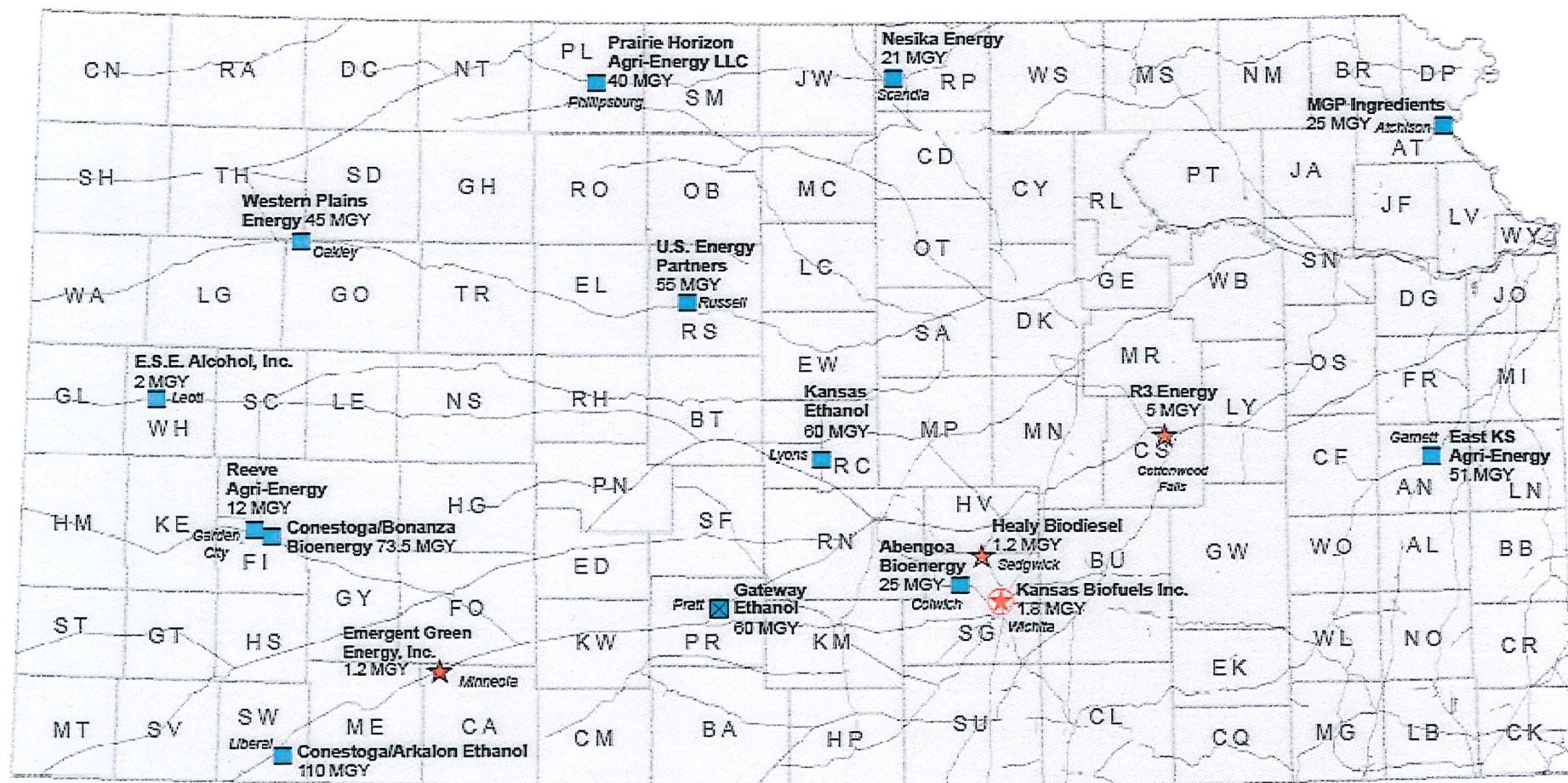
HOUSE ENERGY AND UTILITIES

DATE: 2/9/2011

ATTACHMENT

3-1

Ethanol and Biodiesel Plant Activity in Kansas Existing and Idle Only January 2011



Kansas Department of Agriculture
Administrative Services, GIS
January 18, 2011



MGY = Millions of gallons per year of permitted capacity.
Capacities are courtesy of the Kansas Department of Health and
Environment and the Kansas Department of Revenue.

Ethanol Plants

- Existing: 12 plants, 519.5 MGY
- Idle: 1 plant, 60 MGY

Biodiesel Plants

- Existing: 3 plants, 7.4 MGY
- Idle: 1 plant, 1.8 MGY



Kansas ETHANOL

Good morning Chairman Holmes and members of the House Energy and Utilities Committee. I am Mike Chisam and I am the General Manager of Kansas Ethanol and also serve as the chairman of the Kansas Association of Ethanol Processors (KAEP), which represents the ethanol industry in Kansas. Today, I appear before you in support of HB 2122, the ethanol incentive fund bill.

Let me start by explaining a little bit about the ethanol industry in Kansas. There are 12 ethanol plants in Kansas however the one in Atchison actually produces food-grade ethanol whereas the rest of the plants produce fuel-grade ethanol. These plants produce an estimated 500 million gallons of ethanol annually.

The ethanol plants provide a significant economic boost to their rural communities. According to a Kansas Legislative Research Department report issued just last year, the ethanol industry has had a significant economic impact in Kansas as illustrated by the following points:

- \$616 million was spent on construction of 9 plants
- \$2 million was paid in property taxes in 2009
- \$53 million was paid to trucking firms
- 328 employees were directly employed by the plants at an average salary of \$49,000
- For every job created at the plant, 6.72 indirect jobs were created, resulting in an estimated 4,186 jobs in Kansas created by the ethanol plants
- 14.5 million bushels of grain are used, on average, by each plant each year

At my particular plant in Lyons, we employ 36 people and another 70+ people are indirectly employed because we use their services on a full time basis. We have an annual payroll of approximately \$2 million; however, our contribution to the local economy does not stop there. We also utilize local trucking firms and other service providers as much as possible, plus we purchase our grain from local producers and elevators (\$75 million spent on grain in FY 2010). We are a community partner with the City of Lyons and Rice County and we have brought jobs and economic development to our area.

We are asking for the ethanol incentive fund to be renewed for another 7 years. The ethanol incentive fund was renewed in 2001 with the purpose of encouraging development of ethanol plants in the State. The legislature set up this program with plants being eligible to participate in the ethanol fund for 7 years, with participation ceasing after the seventh year. Some of the

Kansas plants were able to utilize this program immediately and are no longer receiving any funds. However, a number of the current ethanol plants were built in the mid to late 2000's so they will be unable to receive their 7 years of payments without the program being renewed for a few more years.

Kansas was able to encourage plants to be built in rural communities due in part to the creation of this fund. Now we are asking your support of this bill so that the state is allowed to fulfill their commitment to the ethanol plants that did come to Kansas, that have employed a number of people and have provided a significant economic boost to Kansas.

I respectfully request the committee favorably pass out HB 2122. I would be happy to answer any questions you may have at the appropriate time.

Good morning Chairman Holmes and members of the House Energy and Utilities Committee. I am Tom Willis and I am the Chief Executive Officer for Conestoga Energy Partners which is owned by Bonanza BioEnergy LLC (Garden City , KS) and Arkalon Ethanol, LLC (Liberal, KS) and I am also a board member of the Kansas Association of Ethanol Processors (KAEP). Today, I appear before you in support of HB 2122, the ethanol incentive fund bill.

The previous conferee has given you a good overview of the Kansas ethanol industry and I agree with the points that have been made however I would like to expand on these points and tell you a little about the plants that I manage in southwest Kansas.

First, let me start with the economic s of the plants Bonanza BioEnergy, LLC (in Garden City) and Arkalon Ethanol, LLC (in Liberal)

- 104 employees directly employed
- 100 indirect employed by the ethanol plant
- Over \$4 million payroll
- Over \$700, 0000 in annual property taxes

While these numbers are impressive and have created many jobs for people in western Kansas, we are also very pleased about the creative and innovative things that these plants are doing that will have a positive impact for the future. Some of these include:

- The capture and sequestration of our CO2.
 - We are currently capturing the CO2 produced at Arkalon Ethanol and using it for Enhanced Oil Recovery in low or non producing oil wells. This process produces two great values: It aids in the production of incremental oil that heretofore would have been inaccessible as well as reducing the amount of green house gas emissions. By pursuing this course of action and other innovative measures, we are able to produce a very low carbon ethanol which allows us to captures both domestic and International premiums. These dollars all come back to Kansas and are used to support local economies & families within our State.
- We work very close with our local grain companies helping to ensure strong local markets for the corn and sorghum that is produced in locally. The Kansas Ethanol industry has been a big driver in increasing the price our producers get for their sorghum.

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- In addition to the 170 Million gallons of home grown ethanol produced annual , we also supply the local livestock industry with over 1.2 million tons of high quality wet distillers feed. This Co-Product works well in many rations because of its high protein and energy content. We have working with very closing with local feeders and the National Sorghum Producers in commercial feeding trials with the goal of optimizing the feed blends.

Beyond the local economic reasons, ethanol is a great commodity for the country because ethanol is the only viable and available fuel that can be substituted for gasoline. Unlike oil, ethanol is renewable and will never run out. We believe that ethanol will continue to be a sustainable and effective energy solution for the world. America's dependence on foreign oil is causing us problems by raising the prices on such things as gas, groceries and sends our money and jobs overseas.

Our Garden City and Liberal plant began producing ethanol in late 2007. We still have a couple years left to participate in the incentive fund. We believe we have held up our end of the bargain and have brought good paying jobs to southwest Kansas, we have partnered with the grain and the livestock industry so that everyone can benefit and we have given back to our community. We definitely look at our plants as a partnership and are asking the committee to extend the sunset of the incentive fund.

Just as the original Conestoga wagon was instrumental in creating opportunity for a generation of pioneers, Conestoga Energy Partners is providing opportunity for a new generation of pioneers committed to renewable fuels and energy independence. At Conestoga Energy Partners we have a saying: "We're proud to be fueling the New Frontier" .

Thank you for your time and attention. I respectfully request the committee favorably pass out HB 2122. I would be happy to answer any questions you may have at the appropriate time.

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Suite 300
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Telephone (+) 636-728-0508
Fax (+) 636-728-1148

ABENGOA BIOENERGY
ABENGOA BIOENERGY US HOLDING

Good morning Chairman Holmes and members of the House Energy and Utilities Committee. My name is Chris Standlee and I am the Executive Vice President for Abengoa Bioenergy U.S. Holding, Inc. Abengoa Bioenergy currently operates six ethanol production facilities in the United States, including one established in the early 1980's in Colwich, Kansas. We are also developing one of the world's first cellulosic ethanol facilities in Hugoton, Kansas, and hope to start construction on that facility in the near future. Abengoa Bioenergy is also a board member of the Kansas Association of Ethanol Processors (KAEP), and today I appear before you in support of HB 2122, the ethanol incentive fund bill.

Our plant in Colwich was one of the original plants in Kansas, and has been expanded several times to its current production capacity of 25 million gallons of ethanol per year. We have experienced the dramatic growth and many changes in the ethanol industry, and now Abengoa is excited to be on the cutting edge of the next generation of ethanol technology – production of ethanol from cellulosic feedstocks.

Traditional ethanol plants use corn or sorghum as their feedstock for producing ethanol. Cellulosic ethanol means we will be using wheat stubble, corn stover, milo stubble, prairie grasses and similar nonfood items to make ethanol. This is a new way of producing ethanol and we are very excited about this plant and want to tell you a little about the project.

- The ABBK project will be located in Hugoton, KS (Stevens County). We anticipate breaking ground very soon and are planning for "mechanical completion" by the start of 2013.
- The ABBK plant will have approximately 65 employees with a payroll in excess of five million dollars.
- During the construction process, there will be at least 300 direct construction jobs with another 75 indirect jobs associated with the construction.
- Once the plant is running, we anticipate that there will be approximately 300 indirect jobs associated with the ABBK Plant.

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- Feedstock costs to the plant, which is what the local farmers will be receiving for harvesting and delivering the biomass material to ABBK, will be in excess of \$17 million per year.
- The contribution of this facility to the local community and to the state in payroll and other taxes will obviously be quite significant.

We are an international leader in the ethanol world and could have located this facility anywhere, but we chose Kansas due to the abundance and diversity of feedstock available, and because of our history with the state and the business climate and support from the state and the people of Kansas. The ethanol incentive fund is an important incentive for the development of these new technologies within the state of Kansas, and is a significant factor in the financing of new facilities. We would appreciate your assistance in extending the sunset of the ethanol incentive fund.

Thank you for your time and attention. I respectfully request the committee favorably pass out HB 2122. I would be happy to answer any questions you may have at the appropriate time.

Science. Solutions. Service.



February 9, 2011

Memorandum:

To: House Energy and Utility Committee
From: Thomas M. Palace
Re: Written Comments Supporting HB 2122

Mr. Chairman and Members of the House Energy and Utilities Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

The ethanol producers and gasoline retailers have formed a good partnership offering ethanol blended gasoline to the Kansas consumer. Although this has not always been the case, today fuel marketers that don't use ethanol are at a competitive disadvantage because ethanol lowers the price of gasoline. Consumers expect lower prices and blending motor fuel with ethanol produces lower prices at the pump.

As a partner with the ethanol industry, we feel the extension of the ethanol incentive is crucial in an effort to maintain the expansion of ethanol plants in Kansas. The fund also helps maintain the plants currently operating in Kansas. Ethanol plants have a huge financial impact on Kansas most notably, they help create and retain jobs in the rural sector. According to the Kansas Legislative Research Department the ethanol industry had the following impact on the Kansas economy:

- \$616 million was spent on construction of 9 plants
- \$2 million property taxes were paid in 2009
- \$98,609 personal property taxes were paid in 2009
- 328 FTE's or an average of 32.8/plant
- 101 indirect jobs are created by each 100 million gallon plant
- \$53 million was paid to the trucking community to ship distillers grain and ethanol
- \$233 million expansion of the local economic base each year
- An average of 14.5 million bushels of grain was used by each plant, which provides a market for local grain producers

Mr. Chairman we appreciate your time and ask to the committee to support HB 2122.

Petroleum Marketers and Convenience Store Association of Kansas

115 SE 7th • Topeka, KS 66603
PO Box 678 • Topeka, KS 66601-0678
785-233-9655 • Fax: 785-354-4374

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816 SW Tyler St., Ste. 300
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Cell: 785-220-4068
Fax: 785-233-1038
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House Utilities Committee Feb. 9, 2011

HB 2122 - extending the sunset on the agricultural ethyl alcohol producer incentive fund.

Chairman Holmes and members of the House Energy & Utilities, thank you for the opportunity to comment in support of HB 2122 extending the sunset on the agricultural ethyl alcohol producer incentive fund. I am Leslie Kaufman and I serve as President/CEO of the Kansas Cooperative Council. The Kansas Cooperative Council (KCC) is a voluntary, statewide trade association representing all forms of cooperative businesses across the state -- agricultural, utility, credit, financial, refining and consumer cooperatives.

As we understand it, HB 2122 merely continues a long-standing Kansas program aimed at encouraging the production of bio-based fuel. The KCC supports initiatives which promote the development, use and promotion of economically viable renewable energy sources.

Ethanol processing provides jobs in Kansas, mostly in what would be referred to as "rural" areas of the state where employment opportunities are often limited. Turning grain into fuel provides an additional market for crops, helping support the return producers get on their grain. We have had the occasion where an agricultural cooperative has been able to serve as the grain supplier for a plant, as well. Providing jobs and helping reduce our reliance on foreign oil important benefits derived from the ethanol industry. For all of these reasons, and many more, we ask for your favorable consideration of HB 2122.

Thank you again for this opportunity to provide comments on this measure. If you have any questions regarding our testimony, please feel free to contact me.

Leslie Kaufman, President/CEO
Kansas Cooperative Council
785-220-4068

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ATTACHMENT



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ENERGY and UTILITIES

RE: HB 2122 – Agriculture Ethyl Alcohol producer incentive;
Extension.

**February 9, 2011
Topeka, Kansas**

**Written testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations**

Chairman Holmes, and members of the House Committee on Energy and Utilities, thank you for the opportunity to offer our support of HB 2122. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

On behalf of Kansas Farm Bureau (KFB) I would like to extend our appreciation to the Kansas Legislature for its past support for ethanol. You undoubtedly share our firm commitment to this valuable, renewable energy resource. We at KFB stand ready to assist you in your mission to promote this alternative fuel.

Ethanol has tremendous upside not only for ag producers, but also fuel consumers. Consumption of alternative fuel reduces our dependence on foreign oil and enhances market demand for corn, grain sorghum and other crops, which is good for Kansas agriculture, and the rural Kansas economy.

As you know, our members consume large quantities of fuel, oil and fertilizer in a variety of uses ranging from running the tractor or combine, to the irrigation engine, to the application of nitrogen fertilizers that are petroleum derived products. In fact, within

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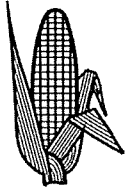
DATE: 2/9/2011

ATTACHMENT 9-1

their communities, many of them purchase larger quantities of fuel than their local school district. Regularly, fuel expense is the largest input cost in overall production outlay. Farmers, as you know, operate their business without the opportunity to pass costs on to others. They are subject to receiving only what the market will pay for their commodities without regard for the costs of production. For these reasons, proactive programs that potentially lower future fuel costs are of vital importance.

Therefore, producing fuel from Kansas corn and other commodities is better long-term than continuing to rely on imported foreign oil. That's why extending ethanol production incentives in place are important to Kansas Farm Bureau. These incentives would help us build more local demand for Kansas crops, while at the same time lowering the long-term cost of ethanol production. It is a win-win for Kansas farmers and consumers. For these reasons, KFB supports the proposal contained in HB 2122, which is a positive step and viable commitment by the state that should be seriously considered.

In conclusion, thank you for your consideration, your support of ethanol and Kansas agricultural producers. We stand ready to assist as you consider this important measure. Thank you.



**Kansas Corn Growers Association
Kansas Grain Sorghum Producers Association**



PO Box 446

Garnett, KS 66032

785-448-6922

TO: House Utilities Committee

FROM: Jere White, Executive Director

SUBJECT: HB2122

DATE: February 9, 2011

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association wish to submit this written testimony in support of House Bill 2122.

Our most recent testimony regarding the Kansas ethanol incentive program was delivered on February 7, 2001, just over ten years ago. At that time, we said the ethanol industry showed great promise in providing real economic growth, especially in our rural Kansas communities. Today, you can look at our successful Kansas ethanol plants located across the state, and the positive economic impact, including jobs created in those communities. The Kansas ethanol incentive program played an important part in developing those plants.

Back in 2001, our organizations were working with communities and local groups to help them with feasibility studies to help them determine if their communities had the right mix of grain, energy, transportation and other factors needed for a successful project. One major point in those feasibility studies was the availability of a consistent and reliable state incentive program--this was a vital element not only for plant owners, but also for lenders.

Today, we can report that the Kansas ethanol incentive fund has played a major role in establishing a strong ethanol industry in our state. We are today, simply asking for an extension of that commitment to our plants. An extended incentive fund would apply to two important known projects, as we hope to see the Pratt plant in production in the next year and also the Abengoa plant in Hugoton.

Our ethanol incentive fund has been a success. The industry has already provided over 325 direct jobs, not to mention supporting industries. It is estimated that ethanol plants pay about \$53 million per year to the trucking industry which moves grain, ethanol and DDGS to and from the ethanol plants. It is clear that the incentive has paid for itself time and time again in economic growth and state and local tax receipts.

Thank you for your consideration and study of this issue. We encourage your support of HB2122.

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ATTACHMENT 10