

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chair Carl Holmes at 9:00 A.M. on February 15, 2011, in Room 785 of the Docking State Office Building.

All members were present except:
Representative Stan Frownfelter-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 Forrest Knox, 13th District
Dave Springe, CURB

Others Attending:
Twenty One including the attached list.

Action on:
HB 2122-Agricultural ethyl alcohol producer incentive fund; extension.

Representative Forrest Knox spent time explaining (Attachment 1) the specifics for the seven year payout of the ethanol incentive fund and how the benefits these plants have been receiving have been used.

Representative Forrest Knox proposed a change in the bill to 3.5 cents. This suggested amendment keeps the plants at the current level that they have been receiving the incentive fund instead of how the statute reads of a 7 cent amount.

Matt Sterling, Revisor, (Attachment 2) explained the proposed amendment. He noted that comment 5 in the attachment is the proposed amendment to **HB 2122**.

Questions were asked and comments made by Representatives: Vern Swanson, Don Hineman, Tom Sloan, Forrest Knox, Mike Slattery, Nile Dillmore, Reynaldo Mesa, and Joe Seiwert.

Representative Forrest Knox moved to amend **HB 2122** with the amendment (Attachment 2). Seconded by Representative Reynaldo Mesa.

Discussion on the motion ensued with Representatives: Nile Dillmore, Don Hineman, Joe Seiwert, Mike Burgess, and Forrest Knox.

Motion to amend **HB 2122** with (Attachment2), passed 9-8.

Continued discussion on **HB 2122** by Representative Nile Dillmore.

Nile Dillmore proposed an amendment to **HB 2122** (Attachment 3) to reduce the period of time these funds are available from 7 years to 5 years. Seconded by Representative Gail Finney.

Discussion ensued between Representatives: Forrest Knox, Nile Dillmore, Greg Smith, Don Hineman, Joe Seiwert, and Don Schroeder.

Matt Sterling noted that comment number 7 in attachment 3 is the proposed amendment.

Motion to amend failed 5-12.

Continued discussion on **HB 2122** by Representative Nile Dillmore, with explanation by Matt Sterling.

Representative Nile Dillmore moved to amend **HB 2122** that would sweep any funds left at the end of the fiscal year back into the general highway fund. Seconded by Representative Annie Kuether.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 9:00 A.M. on February 15, 2011, in Room 785 of the Docking State Office Building.

Continued discussion by Representatives: Mike Burgess, Forrest Knox, Nile Dillmore, and Tom Sloan.

Motion to amend **HB 2122** passed.

Discussion continued by Representative Mike Burgess.

Representative Reynaldo Mesa moved to pass **HB 2122** favorably as amended. Seconded by Representative Stephen Alford. Motion passed.

Representative Reynaldo Mesa will carry the bill on the House floor.

Action on **HB 2122** was closed.

Action on:

HB 2141-Concerning property; requiring wind and solar agreements to run with surface estate.

Representative Forrest Knox moved to amend **HB 2141** (Attachment 4) with the proposed language. Seconded by Representative Phil Hermanson.

Matt Sterling explained the proposed amendment.

Discussion ensued by Representatives: Tom Sloan, Mike Slattery, and Forrest Knox.

Motion to amend passed.

Representative Annie Kuether moved to pass **HB 2141** as amended favorably. Representative Phil Hermanson seconded the motion. Motion passed.

Representative Don Hineman will carry the bill on the House floor.

Action on **HB 2141** was closed.

Hearing on:

HB 2143-Electric generation, transmission and distribution; relating to recovery of costs for energy storage devices.

Proponents:

Representative Tom Sloan, 45th district, (Attachment 5) presented testimony in support of **HB 2143**. He noted this bill would allow energy storage to move into the arena of recovery of investment for the energy companies that might invest in energy storage.

Questions were asked and comments made by Representative Forrest Knox.

Opponents:

Dave Springe, CURB, (Attachment 6) rose in opposition to **HB 2143** and spoke to the committee about the reasons CURB opposes the language in this bill.

Questions were asked and comments made by Representative Don Hineman.

The hearing on **HB 2143** was closed.

The next meeting is scheduled for February 16, 2011.

The meeting was adjourned at 10:13 A.M.

HOUSE ENERGY AND UTILITIES COMMITTEE

GUEST LIST

DATE: February 15, 2011

NAME	REPRESENTING
Joe Dick	KCBPU
Colin Curtis	Sandstone Group
Doug Smith	SEPC
DELEK HEN	HEN (and Enron)
Mike Reesat	Atmos Energy
JOHN C. BOTTENBERG	KS Ethanol / WESTAR
PHIL WAGES	KEPCO
George Shaloud	Clean Line
Mary Jane Stankiewicz	KS Assoc Ethanol Processors
BRAD HARRELSON	KFB
Steve Swaffer	KFB
Lon Stanton	Northern Natural Gas
Mark Schreiber	Westar
Carl M. Doucet	Talkross Partners
HARRY BEEB	MIDWEST ENERGY
Tom DAY	KCE
Kimberly Sraty	Wind Coalition
Ken Peterson	KS Petroleum Council
Scott Paradise	HCC

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
U S ENERGY PARTNERS LLC 1224 E 15TH ST RUSSELL, KS	November-2001	4th 2001	3,486,882	3,486.882	\$261,516.15	\$0.075	
		1st 2002	5,945,627	5,945.627	\$445,922.03	\$0.075	
		2nd 2002	7,532,051	5,567.491	\$417,561.83	\$0.075	Exceeded limitation by 1,964,560 gallons
		3rd 2002	10,038,853	0	\$0.00	\$0.000	No payment given exceeded limit in 2nd qtr 02
Production starts over with 4th Qtr each year		4th 2002	10,440,806	10,440.806	\$783,060.45	\$0.075	
		1st 2003	11,460,453		\$341,939.55	\$0.075	Exceeded limitation by 6,901,259 gallons
		2nd 2003	11,570,029	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 03
		3rd 2003	11,051,727	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 03
7 YEAR PAYOUT WILL EXPIRE AFTER THE 3rd QTR 2007 IS FILED		4th 2003	11,487,796	11,487.796	\$861,584.70	\$0.075	
		1st 2004	11,447,930		\$263,415.30	\$0.075	Exceeded limitation by 7,935,726 gallons
		2nd 2004	11,427,439	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 04
		3rd 2004	11,492,829	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 04
U S ENERGY PARTNERS LLC 1224 E 15TH ST RUSSELL KS 67665 07/28/2009		4th 2004	11,509,189	11,509,189	\$863,189.18	\$0.075	
		1st 2005	12,190,884		\$261,810.83	\$0.075	Exceeded limitation by 8,700,073 gallons
		2nd 2005	11,906,450	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 03
		3rd 2005	12,482,885	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 03
		4th 2005	12,268,896	12,268,896	\$920,167.20	\$0.075	
		1st 2006	12,518,150		\$204,832.80	\$0.075	Exceeded limitation by 9,787,046 gallons
		2nd 2006	12,786,821	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 06
		3rd 2006	12,682,236	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 06
		4th 2006	12,802,483	12,802,483	\$808,732.85	\$0.06317	
		1st 2007	13,087,470	2,197,517	\$164,813.78	\$0.075	Exceeded limitation by 10,889,953 gallons
		2nd 2007	13,109,584	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 07
		3rd 2007	11,877,248	0	\$0.00	\$0.000	No payment given exceeded limit in 1st qtr 07
		4th 2007	13,109,584	0	\$0.00	\$0.000	7 years expired no refunds now
		1st 2008	12,295,339	0	\$0.00	\$0.000	7 years expired no refunds now
		2nd 2008	10,873,162	0	\$0.00	\$0.000	7 years expired no refunds now
		3rd 2008	11,547,834	0	\$0.00	\$0.000	7 years expired no refunds now
		4th 2008	12,343,681	0	\$0.00	\$0.000	7 years expired no refunds now
		1st 2009	13,387,826	0	\$0.00	\$0.000	7 years expired no refunds now
		2nd 2009	12,487,730	0	\$0.00	\$0.000	7 years expired no refunds now
		3rd 2009	13,297,769	0	\$0.00	\$0.000	7 years expired no refunds now
		4th 2009	12,375,775	0	\$0.00	\$0.000	7 years expired no refunds now
		1st 2010	13,646,442	0	\$0.00	\$0.000	7 years expired no refunds now
		2nd 2010	12,814,226	0	\$0.00	\$0.000	7 years expired no refunds now
		3rd 2010	12,027,136	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2010					7 years expired no refunds now
		1st 2011					
		2nd 2011					
		3rd 2011					
	4th 2011						
Total			416,811,222	75,706,687	\$3,223,546.63		

DATE: 2/15/2011
 ATTACHMENT 1-1
 HOUSE ENERGY AND UTILITIES

2-1

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
REEVE AGRI ENERGY 7 MILES SOUTH OLD 83 HIGHWAY GARDEN CITY, KS	September-1987	3rd 2001	2,739,818	2,739,818	\$136,990.90	\$0.05	
		4th 2001	2,912,271	2,912,271	\$145,613.55	\$0.05	
		1st 2002	2,710,476	2,710,476	\$108,419.04	\$0.04	Had to adjust payment
YR. 2000	11,022,606	2nd 2002	2,858,257	2,858,257	\$128,621.57	\$0.045	Had to adjust payment
	5,000,000	3rd 2002	2,753,919	2,753,919	\$137,695.95	\$0.05	
Must increase to this amount	16,022,606	4th 2002	2,882,562	2,882,562	\$144,128.10	\$0.05	
		1st 2003	2,852,214	2,852,214	\$142,610.70	\$0.05	
Not to succeed more than 15,000,000	26,022,606	2nd 2003	2,867,601	2,867,601	\$143,380.05	\$0.05	
		3rd 2003	2,792,386	2,792,386	\$139,619.30	\$0.05	
		4th 2003	3,041,320	3,041,320	\$152,066.00	\$0.05	
Have to meet base production each calendar year.		1st 2004	2,874,467	2,874,467	\$143,723.35	\$0.05	
		2nd 2004	2,827,157	2,827,157	\$114,612.94	\$0.04054	Had to adjust payment
7 YEAR PAYOUT WILL EXPIRE		3rd 2004	2,783,826	0	\$0.00	\$0.00	
AFTER THE 2nd QTR 2007 IS FILED		4th 2004	2,964,899	0	\$0.00	\$0.00	
		1st 2005	2,853,169	0	\$0.00	\$0.00	
		2nd 2005	2,756,043	0	\$0.00	\$0.00	
		3rd 2005	2,768,855	0	\$0.00	\$0.00	
		4th 2005	2,977,834	0	\$0.00	\$0.00	
		1st 2006	2,963,168	0	\$0.00	\$0.00	
		2nd 2006	3,083,144	0	\$0.00	\$0.00	
		3rd 2006	2,877,262	0	\$0.00	\$0.00	
		4th 2006	3,072,237	0	\$0.00	\$0.00	
		1st 2007	2,810,917	0	\$0.00	\$0.00	
		2nd 2007	2,927,746	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2007	3,193,235	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2007	3,307,244	0	\$0.00	\$0.00	7 years expired no refunds now
		1st 2008	3,395,818	0	\$0.00	\$0.00	7 years expired no refunds now
		2nd 2008	3,108,539	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2008	3,199,987	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2008	3,193,188	0	\$0.00	\$0.00	7 years expired no refunds now
		1st 2009	2,740,200	0	\$0.00	\$0.00	7 years expired no refunds now
		2nd 2009	3,147,674	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2009	3,251,006	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2009	3,197,081	0	\$0.00	\$0.00	7 years expired no refunds now
		1st 2010	2,991,792	0	\$0.00	\$0.00	7 years expired no refunds now
		2nd 2010	2,857,534	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2010	3,074,120				7 years expired no refunds now
		4th 2010					7 years expired no refunds now
		1st 2011					
		2nd 2011					
		3rd 2011					
		4th 2011					
		Total	109,608,966	34,112,448	\$1,637,481.45		

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Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
WEST KANSAS AGRI ENERGY LLC 1304 S MAIN ST GARNETT, KS	June-2005	2nd 2005	0	0	\$0.00	\$0.075	
		3rd 2005	8,924,390	8,924,390	\$669,329.25	\$0.075	
		4th 2005	9,723,458	6,075,610	\$455,670.75	\$0.075	Exceeded production limit pd on by 3,647,848 gallons
		1st 2006	10,393,739	0	\$0.00	\$0.000	No payment given exceeded limit in 4th qtr 05
		2nd 2006	12,039,150	12,039,150	\$902,936.25	\$0.075	
		3rd 2006	12,399,135	2,960,850	\$222,063.75	\$0.075	Exceeded production limit pd on by 9,438,285 gallons
		4th 2006	10,412,695	0	\$0.00	\$0.000	No payment given exceeded limit in 3rd qtr 06
		1st 2007	10,985,438	0	\$0.00	\$0.000	No payment given exceeded limit in 3rd qtr 06
		2nd 2007	10,442,146	10,442,146	\$783,160.95	\$0.075	
		3rd 2007	11,507,531	4,557,854	\$341,839.05	\$0.075	Exceeded production limit pd on by 6,949,677 gallons
EAST KANSAS AGRI ENERGY LLC 1304 S MAIN GARNETT KS 66032 07/28/2009	4th 2007	10,636,664	0	\$0.00	\$0.000	No payment given exceeded limit in 3rd qtr 07	
	1st 2008	10,955,505	0	\$0.00	\$0.000	No payment given exceeded limit in 3rd qtr 07	
	2nd 2008	10,322,036	10,322,036	\$299,339.04	\$0.029		
	3rd 2008	10,789,777	0	0	0	Gallons will be paid for as part of FY 09 annual payment	
	4th 2008	8,944,826	0	0	0	Gallons will be paid for as part of FY 09 annual payment	
	1st 2009	563,317	0	0	0	Gallons will be paid for as part of FY 09 annual payment	
	2nd 2009	10,725,504	15,000,000	\$503,520.00	0.033568	FY 09 Payment	
	3rd 2009	10,851,577	0	0	0	Gallons will be paid for as part of FY 10 annual payment	
	4th 2009	10,573,153	0	0	0	Gallons will be paid for as part of FY 10 annual payment	
	1st 2010	10,746,778	0	0	0	Gallons will be paid for as part of FY 10 annual payment	
	2nd 2010	10,723,583	15,000,000	\$514,860.00	0.034324	FY 10 Payment	
	3rd 2010	10,966,881	0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	4th 2010		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	1st 2011		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	2nd 2011					FY 11 Payment	
	3rd 2011						
	4th 2011						
Total			213,627,283	85,322,036	\$4,692,719.04		

Production starts over with 2nd Qtr each year

**7 YEAR PAYOUT WILL EXPIRE
AFTER THE 2nd QTR 2012 IS FILED**

1-4

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
E.S.E. ALCOHOL INC 1 1/2 MILE EAST K-96 LEOTI, KS	September-1987	3rd 2001	368,219	368,219	\$18,410.95	\$0.05	
		4th 2001	309,298	309,298	\$15,464.90	\$0.05	
		1st 2002	318,300	318,300	\$12,732.00	\$0.04	Had to adjust payment
		2nd 2002	338,573	338,573	\$15,235.79	\$0.045	Had to adjust payment
		3rd 2002	314,553	314,553	\$15,727.65	\$0.05	
		4th 2002	371,009	371,009	\$18,550.45	\$0.05	
		1st 2003	369,654	369,654	\$18,482.70	\$0.05	
		2nd 2003	273,659	273,659	\$13,682.95	\$0.05	
		3rd 2003	412,343	412,343	\$20,617.15	\$0.05	
		4th 2003	373,769	373,769	\$18,688.45	\$0.05	
YR. 2000	1,241,590	1st 2004	365,842	365,842	\$18,292.10	\$0.05	
		2nd 2004	377,133	377,133	\$15,288.97	\$0.04054	Had to adjust payment
		3rd 2004	357,356	0	\$0.00	\$0.00	*Quit reporting as would not get
		4th 2004	357,356	0	\$0.00	\$0.00	paid so we are estimating gallons.*
		1st 2005	357,356	0	\$0.00	\$0.00	""
		2nd 2005	357,356	0	\$0.00	\$0.00	""
		3rd 2005	357,356	0	\$0.00	\$0.00	""
		4th 2005	357,356	0	\$0.00	\$0.00	""
		1st 2006	357,356	0	\$0.00	\$0.00	""
		2nd 2006	357,356	0	\$0.00	\$0.00	""
Must increase to this amount	6,241,590	3rd 2006	357,356	0	\$0.00	\$0.00	""
		4th 2006	357,356	0	\$0.00	\$0.00	""
		1st 2007	357,356	0	\$0.00	\$0.00	""
		2nd 2007	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2007	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2007	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		1st 2008	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		2nd 2008	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2008	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2008	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
Not to succeed more than 15,000,000	16,241,590	1st 2009	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		2nd 2009	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2009	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2009	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		1st 2010	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		2nd 2010	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		3rd 2010	357,356	0	\$0.00	\$0.00	7 years expired no refunds now
		4th 2010		0	\$0.00	\$0.00	7 years expired no refunds now
		1st 2011					
		2nd 2011					
Have to meet base production each calendar year.		3rd 2011					
		4th 2011					
7 YEAR PAYOUT WILL EXPIRE AFTER THE 2nd QTR 2007 IS FILED							
ESE ALCOHOL INC PO BOX 848 LEOTI KS 67861 07/28/2009		3rd 2011					
		4th 2011					
Total			13,126,252	4,192,352	\$201,174.06		

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
Kansas Ethanol LLC 1630 Ave Q Lyons KS 67554 7 YEAR PAYOUT WILL EXPIRE AFTER THE 3rd Qtr 2015 IS FILED	July-2008	2nd 2008	7,328,594	7,328,594	\$212,529.22	0.029	
		3rd 2008	13,941,319	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		4th 2008	14,816,154	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		1st 2009	14,652,407	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		2nd 2009	14,725,580	15,000,000	\$503,520.00	0.033568	FY 09 Payment
		3rd 2009	14,715,891	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		4th 2009	15,303,250	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		1st 2010	14,270,851	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		2nd 2010	15,013,007	15,000,000	\$514,860.00	0.034324	FY 10 Payment
		3rd 2010	15,167,433	0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
Kansas Ethanol LLC 1630 Ave Q Lyons KS 67554 07/28/2009	4th 2010		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	1st 2011		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	2nd 2011					FY 11 Payment	
	3rd 2011						
	4th 2011						
Total			139,934,486	37,328,594	\$1,230,909.22		

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
BONANZA BIO ENERGY LLC 2830 E US HWY 50 GARDEN CITY, KS	December-2007	4th 2007	14,898,615	0	\$0.00	0	Did not file report timely to receive payment
		1st 2008	14,796,409	14,796,409	\$909,979.15	0.0615	Paid on all gallons produced this quarter
		2nd 2008	13,917,284	203,591	\$5,904.13	0.029	
		3rd 2008	14,450,561	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		4th 2008	13,663,970	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		1st 2009	16,120,236	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
Production starts over with 4th Qtr each year 7 YEAR PAYOUT WILL EXPIRE AFTER THE 4th QTR 2013 IS FILED		2nd 2009	13,098,227	15,000,000	\$503,520.00	0.033568	FY 09 Payment
		3rd 2009	15,146,195	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		4th 2009	14,877,232	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		1st 2010	14,397,933	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		2nd 2010	12,971,500	15,000,000	\$0.00	0.034324	FY 10 Payment
		3rd 2010	14,798,121	0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		4th 2010		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		1st 2011		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		2nd 2011					FY 11 Payment
		3rd 2011					
BONANZA BIO ENERGY LLC PO BOX 1178 LIBERAL KS 67905 07/28/2009		4th 2011					
Total			173,136,283	45,000,000	\$1,419,403.28		

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Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
ARKALON ETHANOL LLC 4810 ROAD P LIBERAL, KS	December-2007	4th 2007	0	0	\$0.00		
		1st 2008	23,716,414	15,000,000	\$922,500.00	0.0615	Exceeded production limit pd on by 8,716,414 gallons
		2nd 2008	26,863,248	0	\$0.00	0	
		3rd 2008	27,141,605	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		4th 2008	28,416,888	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
Production starts over with 4th Qtr each year		1st 2009	25,995,006	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
		2nd 2009	29,560,165	15,000,000	\$503,520.00	0.033568	FY 09 Payment
		3rd 2009	28,220,466	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		4th 2009	25,245,787	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		1st 2010	26,705,105	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
7 YEAR PAYOUT WILL EXPIRE AFTER THE 4th QTR 2013 IS FILED		2nd 2010	29,071,783	15,000,000	\$514,860.00	0.034324	FY 10 Payment
		3rd 2010	26,668,036	0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		4th 2010		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		1st 2011		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		2nd 2011					FY 11 Payment
ARKALON ETHANOL LLC PO BOX 1007 LIBERAL KS 67905 07/28/2009		3rd 2011					
		4th 2011					

Total	297,604,503	45,000,000	\$1,940,880.00
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2 returns w Ruling was overturned - company

Received
fuel payment

Company Name	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
PRAIRIE HORIZON AGRI ENERGY LLC LOTS 6,7,8 IN HIGHLAND PARK ADDITION PHILLIPSBURG, KS	August-2006	3rd 2006	4,466,819	0	\$0.00	0	Will pay with 4th qtr 06 as have to produce 5,000,000 gallons before paid anything.
		4th 2006	11,126,574	15,000,000	\$947,550.00	0.06317	Exceeded production by 539,393 gallons. 3rd qtr gallons included in payment with 4th qtr.
		1st 2007	11,222,248	0	\$0.00	0	No payment given exceeded limit in 4th qtr 06
		2nd 2007	10,733,472	0	\$0.00	0	No payment given exceeded limit in 4th qtr 06
Production starts over with 3rd Qtr each year		3rd 2007	11,218,801	11,218,801	\$841,410.08	0.075	
		4th 2007	11,413,875	3,781,199	\$283,589.93	0.075	Exceeded production limit by 7632676 gallons in 4th qtr07
7 YEAR PAYOUT WILL EXPIRE AFTER THE 3rd QTR 2013 IS FILED		1st 2008	11,240,722	0	\$0.00	0	No payment given exceeded limit in 4th qtr 07
		2nd 2008	11,000,983	0	\$0.00	0	No payment given exceeded limit in 4th qtr 07
		3rd 2008	9,563,612	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
PRAIRIE HORIZON AGRI ENERGY LLC		4th 2008	9,822,009	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
PO BOX 368		1st 2009	10,066,243	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment
PHILLIPSBURG KS 67661		2nd 2009	10,543,215	15,000,000	\$503,520.00	0.033568	FY 09 Payment
07/28/2009		3rd 2009	10,962,563	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		4th 2009	11,199,610	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		1st 2010	10,146,862	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment
		2nd 2010	11,766,300	15,000,000	\$514,860.00	0.034324	FY 10 Payment
		3rd 2010	11,676,603	0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		4th 2010		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		1st 2011		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment
		2nd 2011					FY 11 Payment
		3rd 2011					
		4th 2011					
Total			178,170,511	60,000,000	\$3,090,930.01		

1-9

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production
WESTERN PLAINS ENERGY LLC SW 1/4 2-11-31 CAMPUS KS Production starts over with 2nd Qtr each year 7 YEAR PAYOUT WILL EXPIRE AFTER THE 2nd QTR 2011 IS FILED	May-2004	2nd 2004	8,973,024	8,973,024	\$672,976.80	0.075	
		3rd 2004	8,883,720	6,026,976	\$452,023.20	0.075	Exceeded production limit pd on by 2,856,744 gallons
		4th 2004	8,276,980	0	\$0.00	0	No payment given exceeded limit 3rd qtr 04
		1st 2005	8,911,778	0	\$0.00	0	No payment given exceeded limit 3rd qtr 04
		2nd 2005	10,135,139	10,135,139	\$760,135.43	0.075	
		3rd 2005	10,376,298	4,864,861	\$364,864.58	0.075	Exceeded production limit pd on by 5,511,437 gallons
		4th 2005	10,627,694	0	\$0.00	0	No payment given exceeded limit 3rd qtr 05
		1st 2006	10,864,784	0	\$0.00	0	No payment given exceeded limit 3rd qtr 05
		2nd 2006	12,039,150	12,039,150	\$902,936.25	0.075	
		3rd 2006	12,399,135	2,960,850	\$222,063.75	0.075	Exceeded prouction limit pd \$0.075 on by 9,438,285 gallons in 3rd qtr 06
WESTERN PLAINS ENERGY LLC 3022 COUNTY RD 18 OAKLEY KS 67748 07/28/2009	4th 2006	11,578,130	0	\$0.00	0	No payment given exceeded limit in 3rd qtr 06	
	1st 2007	11,440,778	0	\$0.00	0	No payment given exceeded limit in 3rd qtr 06	
	2nd 2007	11,708,150	11,708,150	\$878,111.25	0.075		
	3rd 2007	11,536,609	3,291,850	\$246,888.75	0.075	Exceeded prouction limit pd \$0.075 on by 8,244,759 gallons in 3rd qtr 07	
	4th 2007	11,780,495	0	\$0.00	0	No payment given exceeded limit in 3rd qtr 07	
	1st 2008	11,800,853	0	\$0.00	0	No payment given exceeded limit in 3rd qtr 07	
	2nd 2008	12,388,091	12,388,091	\$359,254.63	0.029		
	3rd 2008	12,576,698	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment	
	4th 2008	12,166,228	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment	
	1st 2009	12,555,358	0	\$0.00	0	Gallons will be paid for as part of FY 09 annual payment	
	2nd 2009	12,329,013	15,000,000	\$503,520.00	0.033568	FY 09 Payment	
	3rd 2009	11,985,721	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment	
	4th 2009	12,037,965	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment	
	1st 2010	12,010,879	0	\$0.00	0	Gallons will be paid for as part of FY 10 annual payment	
	2nd 2010	12,196,834	15,000,000	\$514,860.00	0.034324	FY 10 Payment	
	3rd 2010	12,699,270	0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	4th 2010		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	1st 2011		0	\$0.00	0	Gallons will be paid for as part of FY 11 annual payment	
	Expires 07/01/2011	2nd 2011					FY 11 Payment
		3rd 2011					
4th 2011							
Total			294,278,774	102,388,091	\$5,877,634.63		

Company Name & Location		Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD	Exceeded Production	
ABENGOA BIOENERGY CORP FORMALLY HIGH PLAINS 523 E UNION AVE COLWICH, KS	September-1987	3rd 2001		5,075,240	5,075,240	\$253,762.00	\$0.05		
		4th 2001		5,294,891	5,294,891	\$264,744.55	\$0.05		
		1st 2002		5,163,203	5,163,203	\$206,528.12	\$0.04	Had to adjust payment	
		2nd 2002		4,885,976	4,885,976	\$219,868.92	\$0.045	Had to adjust payment	
	YR. 2000		3rd 2002		4,791,273	4,791,273	\$239,563.65	\$0.05	
			4th 2002		4,591,731	4,591,731	\$229,586.55	\$0.05	
	Must increase to this amount		1st 2003		5,678,809	5,678,809	\$283,940.45	\$0.05	
			2nd 2003		5,485,807	5,485,807	\$274,290.35	\$0.05	
	Not to succeed more than 15,000,000	31,163,140	3rd 2003		4,330,743	4,330,743	\$216,537.15	\$0.05	
			4th 2003		6,122,981	6,122,981	\$306,149.05	\$0.05	
			1st 2004		5,993,636	5,993,636	\$299,681.80	\$0.05	
			2nd 2004		5,677,221	5,677,221	\$230,154.54	\$0.04054	Had to adjust payment
			3rd 2004		5,222,911	730,628	\$54,797.10	\$0.075	Exceeded base production by 730,628 gallons
			4th 2004		6,363,019	6,363,019	\$477,226.43	\$0.075	
	7 YEAR PAYOUT WILL EXPIRE AFTER THE 2nd QTR 2007 IS FILED		1st 2005		6,514,346	0	\$0.00	\$0.00	
			2nd 2005		5,681,463	0	\$0.00	\$0.00	
			3rd 2005		4,754,767	787,436	\$59,057.70	\$0.075	Exceeded base production by 787,436 gallons
			4th 2005		6,103,518	6,103,518	\$457,763.85	\$0.075	
	ABENGOA BIOENERGY CORP 16150 MAIN CIRCLE DR #300 CHESTERFIELD MO 63017 07/28/2009		1st 2006		6,449,686	0	\$0.00	\$0.000	
			2nd 2006		5,694,879	0	\$0.00	\$0.000	
		3rd 2006		4,440,655	422,080	\$0.00	below	Exceeded base production by 422,080 gallons waiting on 4th qtr and will pay on all gallons over base that qtr.	
		4th 2006		6,334,911	6,334,911	\$426,839.12	\$0.06317		
		1st 2007		6,234,179	0	\$0.00	\$0.000		
		2nd 2007		6,214,818	0	\$0.00	\$0.000	7 years expired no refunds now	
		3rd 2007		6,205,263	0	\$0.00	\$0.000	7 years expired no refunds now	
		4th 2007		5,999,170	0	\$0.00	\$0.000	7 years expired no refunds now	
		1st 2008		6,592,558	0	\$0.00	\$0.000	7 years expired no refunds now	
		2nd 2008		3,917,422	0	\$0.00	\$0.000	7 years expired no refunds now	
		3rd 2008		932,943	0	\$0.00	\$0.000	7 years expired no refunds now	
		4th 2008		1,570,054	0	\$0.00	\$0.000	7 years expired no refunds now	
		1st 2009		997,452	0	\$0.00	\$0.000	7 years expired no refunds now	
		2nd 2009		4,289,172	0	\$0.00	\$0.000	7 years expired no refunds now	
		3rd 2009		5,315,744	0	\$0.00	\$0.000	7 years expired no refunds now	
		4th 2009		5,075,052	0	\$0.00	\$0.000	7 years expired no refunds now	
		1st 2010		6,479,185	0	\$0.00	\$0.000	7 years expired no refunds now	
		2nd 2010		4,978,811	0	\$0.00	\$0.000	7 years expired no refunds now	
		3rd 2010		5,308,738	0	\$0.00	\$0.00	7 years expired no refunds now	
			4th 2010					7 years expired no refunds now	
		1st 2011							
		2nd 2011							
		3rd 2011							
		4th 2011							
Total				190,762,227	83,833,103	4,500,491			

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD
MPG INGREDIENTS INC	March-1988	3rd 2001	7,750	7,750	\$387.50	\$0.05
FORMALLY MIDWEST GRAIN PRODUCTS INC		4th 2001	2,216,084	2,216,084	\$110,804.20	\$0.05
1300 MAIN ST		1st 2002	4,787,146	4,787,146	\$191,485.84	\$0.04
ATCHISON, KS		2nd 2002	5,686,502	5,686,502	\$255,892.59	\$0.045
YR. 2000	6,881,119	3rd 2002	4,804,448	4,804,448	\$360,333.60	\$0.075
			3,592,529	3,592,529	\$107,775.87	\$0.03
	5,000,000	4th 2002	0	0	\$0.00	\$0.00
Must increase to this amount	11,881,119	1st 2003	71,993	71,993	\$3,599.65	\$0.05
		2nd 2003	0	0	\$0.00	\$0.00
Not to succeed more than 15,000,000	21,881,119	3rd 2003	0	0	\$0.00	\$0.00
		4th 2003	679,764	679,764	\$33,988.20	\$0.05
		1st 2004	3,240,854	3,240,854	\$162,042.70	\$0.05
Have to meet base production each calendar year.		2nd 2004	3,171,275	3,171,275	\$128,563.49	\$0.04054
		3rd 2004	2,749,752	0	\$0.00	\$0.00
7 YEAR PAYOUT WILL EXPIRE		4th 2004	1,161,765	0	\$0.00	\$0.00
AFTER THE 2nd QTR 2007 IS FILED		1st 2005	896,835	0	\$0.00	\$0.00
		2nd 2005	684,404	0	\$0.00	\$0.00
		3rd 2005	498,619	0	\$0.00	\$0.00
		4th 2005	506,943	0	\$0.00	\$0.00
		1st 2006	1,409,303	0	\$0.00	\$0.00
		2nd 2006	964,538	0	\$0.00	\$0.00
		3rd 2006	826,790	0	\$0.00	\$0.00
		4th 2006	769,554	0	\$0.00	\$0.00
		1st 2007	1,251,644	0	\$0.00	\$0.00
		2nd 2007	2,700,904	0	\$0.00	\$0.00
		3rd 2007	1,790,879	0	\$0.00	\$0.00
		4th 2007	2,394,839	0	\$0.00	\$0.00
		1st 2008	1,922,909	0	\$0.00	\$0.00
		2nd 2008	715,200	0	\$0.00	\$0.00
		3rd 2008	560,279	0	\$0.00	\$0.00
		4th 2008	712,180	0	\$0.00	\$0.00
no longer producing ethanol at this time 12/31/2008		1st 2009	909,647	0	\$0.00	\$0.00
		2nd 2009	832,596	0	\$0.00	\$0.00
		3rd 2009	974,610	0	\$0.00	\$0.00
		4th 2009	599,434	0	\$0.00	\$0.00
		1st 2010	1,552,245	0	\$0.00	\$0.00
		2nd 2010	1,176,835	0	\$0.00	\$0.00
		3rd 2010	1,225,597			
		4th 2010				
		1st 2011				
		2nd 2011				
		3rd 2011				
		4th 2011				
		Total	58,046,646	28,258,345	\$1,354,873.64	

11-1

Exceeded Production

1-12

H. ust payment

Hau adjust payment

Got into new production fund

Gallons produced prior period over base production already paid at current rate on.

Had to adjust payment

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

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7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

7 years expired no refunds now

Company Name & Location	Date Started	Quarter	Gallons Produced	# of Gals PD On	Amount PD	Rate PD
Nesika Energy LLC 1020-70 Road Scandia, KS 66966 Production starts over with 1st Qtr each year 7 YEAR PAYOUT WILL EXPIRE AFTER THE 1st QTR 2014 IS FILED NESIKA ENERGY LLC PO BOX 169 SCANDIA KS 66966 07/28/2009	March-2008	1st 2008	514,189	0	\$0.00	0
		2nd 2008	2,675,309	3,189,498	\$92,495.44	0.029
		3rd 2008	2,410,847	0	\$0.00	0
		4th 2008	2,938,715	0	\$0.00	0
		1st 2009	3,110,312	0	\$0.00	0
		2nd 2009	3,071,351	11,531,225	\$387,080.16	0.033568
		3rd 2009	2,934,960	0	\$0.00	0
		4th 2009	3,019,534	0	\$0.00	0
		1st 2010	2,913,283	0	\$0.00	0
		2nd 2010	3,099,711	11,967,488	\$410,772.05	0.034324
		3rd 2010	2,861,058	0	\$0.00	0
		4th 2010		0	\$0.00	0
		1st 2011		0	\$0.00	0
		2nd 2011				
		3rd 2011				
		4th 2011				
		Total	29,549,269	26,688,211	\$26,688,211.00	

Exceeded Production

Will pay with 2nd qtr 08 as have to produce 5,000,000 gallons before paid anything.
paid with the 3rd qtr 2008 period for 1st & 2nd qtr due to yearly change in payment

Gallons will be paid for as part of FY 09 annual payment

Gallons will be paid for as part of FY 09 annual payment

Gallons will be paid for as part of FY 09 annual payment

FY 09 Payment

Gallons will be paid for as part of FY 10 annual payment

Gallons will be paid for as part of FY 10 annual payment

Gallons will be paid for as part of FY 10 annual payment

FY 10 Payment

Gallons will be paid for as part of FY 11 annual payment

Gallons will be paid for as part of FY 11 annual payment

Gallons will be paid for as part of FY 11 annual payment

FY 11 Payment

Session of 2011

HOUSE BILL No. 2122

By Committee on Energy and Utilities

1-28

1 AN ACT concerning the agricultural ethyl alcohol producer incentive
2 fund; relating to extension; amending K.S.A. 2010 Supp. 79-34,161
3 and 79-34,164 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 79-34,161 is hereby amended to read
7 as follows: 79-34,161. On July 1, 2001, and quarterly thereafter, the state
8 treasurer shall credit amounts as provided in this subsection from the
9 amounts remaining after the state treasurer credits an amount to the motor
10 vehicle fuel tax refund fund as provided in K.S.A. 79-3425, and
11 amendments thereto, to the Kansas qualified agricultural ethyl alcohol
12 producer incentive fund. The current production account and the new
13 production account are hereby created in the Kansas qualified agricultural
14 ethyl alcohol producer incentive fund. During fiscal years 2002, 2003 and
15 2004, the state treasurer (a) shall credit \$500,000 each calendar quarter to
the current production account of the Kansas qualified agricultural ethyl
alcohol producer incentive fund, and (b) shall credit \$375,000 each
calendar quarter to the new production account of the Kansas qualified
agricultural ethyl alcohol producer incentive fund. During fiscal years
2005 through ~~2011~~ 2018, the state treasurer shall credit \$875,000 each
calendar quarter to the new production account of the Kansas qualified
agricultural ethyl alcohol producer incentive fund. On July 1 of each
fiscal year through fiscal year ~~2011~~ 2018, or as soon after each such date
as information is available, the secretary of revenue shall certify to the
director of accounts and reports the amount of any unencumbered balance
as of June 30 of the preceding fiscal year in the current production
account of such fund and the director of accounts and reports shall
transfer the amount certified from the current producer account to the
new production account of the Kansas qualified agricultural ethyl alcohol
producer incentive fund. Any unencumbered balance as of June 30 of any
fiscal year in the new production account of such fund shall remain
credited in the new production account for the payment of claims of new

Comment [1]: ,79-34,163,

HOUSE ENERGY AND UTILITIES

DATE: 2/15/2011

2-1
ATTACHMENT

HB 2122 Proposed Amendment
Rep. Knox
2/15/2011

1 production incentives in ensuing fiscal years. If the aggregate of
2 outstanding claims made on the current production account of such fund
3 is greater than the amount credited to such account, then such claims shall
4 be paid on a pro rata basis. Each claim may be paid regardless of the
5 fiscal year during which the claim was submitted.

14 Sec. **2**. K.S.A. 2010 Supp. 79-34,164 is hereby amended to read as
15 follows: 79-34,164. The provisions of K.S.A. 79-34,160 through 79-
16 34,163, and amendments thereto, shall expire on July 1, 2011 2018.

17 Sec. **3**. K.S.A. 2010 Supp. 79-34,161 and 79-34,164 are hereby
18 repealed.

19 Sec. **4**. This act shall take effect and be in force from and after its
20 publication in the statute book.

Comment [2]: Sec. 2. K.S.A. 2010 Supp. 79-34,163 is hereby amended to read as follows:
79-34,163.

(a) A Kansas qualified agricultural ethyl alcohol producer shall be paid a production incentive for distilling agricultural ethyl alcohol. The incentive shall be payable to the Kansas qualified agricultural ethyl alcohol producer from the Kansas qualified agricultural ethyl alcohol producer incentive fund. The amount of the production incentive shall be as follows:

Comment [3]: (1) During fiscal years 2002, 2003 and 2004, the amount shall be \$.05 for each gallon of agricultural ethyl alcohol sold by the producer who is in production prior to July 1, 2001, to an alcohol blender. Any such amounts pursuant to this subsection shall be paid from the current production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund;

Comment [4]: (2) If the producer who is in production prior to July 1, 2001, increases the producer's agricultural ethyl alcohol production capacity on or after July 1, 2001, by an amount of 5,000,000 gallons over the producer's base sales, such producer shall receive an amount equal to \$.075035 for each gallon of agricultural ethyl alcohol sold by the producer to an alcohol blender that is in excess of the producer's base sales. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold. Any such amount shall be paid from the new production account of the fund; and

Comment [5]: (3) any producer who commences production on or after July 1, 2001, the amount shall be \$.075035 for each gallon of agricultural ethyl alcohol sold by such producer to an alcohol blender, if such producer has sold at least 5,000,000 gallons. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold. Any such amounts shall be paid from the new production account of the fund.

Comment [6]: (b) For the purposes of subsection (a), a producer's base sales shall be the number of gallons of agricultural ethyl alcohol sold by the producer to an alcohol blender in calendar year 2000. All new production incentives pursuant to this section for a producer who is in production prior to July 1, 2001, shall be based on such producer's base sales.

Comment [7]: (c) The amounts payable to a producer as provided in subsections (a)(2) and (a)(3) shall be payable for no more than seven years to any one producer.

Comment [8]: (d) The Kansas qualified agricultural ethyl alcohol producer shall file for the production incentive beginning July 1, 2001, and quarterly thereafter, on a form furnished by the department of revenue. The form shall require the producer to file such information as the secretary of

Comment [9]: revenue may require by rules and regulations, but shall include information relating to the original production records and invoices issued to the alcohol blender at the time of delivery, showing the total number of gallons of agricultural ethyl alcohol sold to the alcohol blender for the previous three months.

Comment [10]: (e) The secretary of revenue may adopt such rules and regulations necessary to administer the provisions of this act, including the development of a procedure for the payment of the production incentive.

Comment [11]: 3.

Comment [12]: 4.

Comment [13]: 79-34,163.

Comment [14]: 5.

Session of 2011

HOUSE BILL No. 2122

By Committee on Energy and Utilities

1-28

1 AN ACT concerning the agricultural ethyl alcohol producer incentive
2 fund; relating to extension; amending K.S.A. 2010 Supp. 79-34,161
3 and 79-34,164 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 79-34,161 is hereby amended to read
7 as follows: 79-34,161. On July 1, 2001, and quarterly thereafter, the state
8 treasurer shall credit amounts as provided in this subsection from the
9 amounts remaining after the state treasurer credits an amount to the motor
10 vehicle fuel tax refund fund as provided in K.S.A. 79-3425, and
11 amendments thereto, to the Kansas qualified agricultural ethyl alcohol
12 producer incentive fund. The current production account and the new
13 production account are hereby created in the Kansas qualified agricultural
14 ethyl alcohol producer incentive fund. During fiscal years 2002, 2003 and
15 2004, the state treasurer (a) shall credit \$500,000 each calendar quarter to
16 the current production account of the Kansas qualified agricultural ethyl
17 alcohol producer incentive fund, and (b) shall credit \$375,000 each
18 calendar quarter to the new production account of the Kansas qualified
19 agricultural ethyl alcohol producer incentive fund. During fiscal years
20 2005 through ~~2011~~ 2018, the state treasurer shall credit \$875,000 each
21 calendar quarter to the new production account of the Kansas qualified
22 agricultural ethyl alcohol producer incentive fund. On July 1 of each
23 fiscal year through fiscal year ~~2011~~ 2018, or as soon after each such date
24 as information is available, the secretary of revenue shall certify to the
25 director of accounts and reports the amount of any unencumbered balance
26 as of June 30 of the preceding fiscal year in the current production
27 account of such fund and the director of accounts and reports shall
28 transfer the amount certified from the current producer account to the
29 new production account of the Kansas qualified agricultural ethyl alcohol
30 producer incentive fund. Any unencumbered balance as of June 30 of any
31 fiscal year in the new production account of such fund shall remain
32 credited in the new production account for the payment of claims of new
production incentives in ensuing fiscal years. If the aggregate of

Comment [1]: , 79-34,163,

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HB 2122 Proposed Amendment
Rep. Dillmore
2/11/2011

1 outstanding claims made on the current production account of such fund
2 is greater than the amount credited to such account, then such claims shall
3 be paid on a pro rata basis. Each claim may be paid regardless of the
4 fiscal year during which the claim was submitted.

13 Sec. 2. K.S.A. 2010 Supp. 79-34,164 is hereby amended to read as
14 follows: 79-34,164. The provisions of K.S.A. 79-34,160 through 79-
15 34,163, and amendments thereto, shall expire on July 1, 2018.

16 Sec. 3. K.S.A. 2010 Supp. 79-34,161 and 79-34,164 are hereby
17 repealed.

18 Sec. 4. This act shall take effect and be in force from and after its
19 publication in the statute book.

32
Comment [2]: Sec. 2. K.S.A. 2010 Supp. 79-34,163 is hereby amended to read as follows:
79-34,163.

(a) A Kansas qualified agricultural ethyl alcohol producer shall be paid a production incentive for distilling agricultural ethyl alcohol. The incentive shall be payable to the Kansas qualified agricultural ethyl alcohol producer from the Kansas qualified agricultural ethyl alcohol producer incentive fund. The amount of the production incentive shall be as follows:

Comment [3]: (1) During fiscal years 2002, 2003 and 2004, the amount shall be \$.05 for each gallon of agricultural ethyl alcohol sold by the producer who is in production prior to July 1, 2001, to an alcohol blender. Any such amounts pursuant to this subsection shall be paid from the current production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund;

Comment [4]: (2) If the producer who is in production prior to July 1, 2001, increases the producer's agricultural ethyl alcohol production capacity on or after July 1, 2001, by an amount of 5,000,000 gallons over the producer's base sales, such producer shall receive an amount equal to \$.075 for each gallon of agricultural ethyl alcohol sold by the producer to an alcohol blender that is in excess of the producer's base sales. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold. Any such amount shall be paid from the new production account of the fund; and

Comment [5]: (3) any producer who commences production on or after July 1, 2001, the amount shall be \$.075 for each gallon of agricultural ethyl alcohol sold by such producer to an alcohol blender, if such producer has sold at least 5,000,000 gallons. No producer shall receive the production incentive pursuant to this subsection for more than 15,000,000 gallons sold. Any such amounts shall be paid from the new production account of the fund.

Comment [6]: (b) For the purposes of subsection (a), a producer's base sales shall be the number of gallons of agricultural ethyl alcohol sold by the producer to an alcohol blender in calendar year 2000. All new production incentives pursuant to this section for a producer who is in production prior to July 1, 2001, shall be based on such producer's base sales.

Comment [7]: (c) The amounts payable to a producer as provided in subsections (a)(2) and (a)(3) shall be payable for no more than seven-five years to any one producer.

Comment [8]: (d) The Kansas qualified agricultural ethyl alcohol producer shall file for the production incentive beginning July 1, 2001, and quarterly thereafter, on a form furnished by the department of revenue. The form shall require the producer to file such information as the secretary of

Comment [9]: revenue may require by rules and regulations, but shall include information relating to the original production records and invoices issued to the alcohol blender at the time of delivery, showing the total number of gallons of agricultural ethyl alcohol sold to the alcohol blender for the previous three months.

Comment [10]: (e) The secretary of revenue may adopt such rules and regulations necessary to administer the provisions of this act, including the development of a procedure for the payment of the production incentive.

Comment [11]: 3.

Comment [12]: 4.

Comment [13]: 79-34,163.

Comment [14]: 5.

Session of 2011

HOUSE BILL No. 2141

By Committee on Energy and Utilities

2-3

1 AN ACT concerning property; relating to instruments conveying interests
2 in wind or solar resources; amending K.S.A. 58-2272 and repealing
3 the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 58-2272 is hereby amended to read as follows: 58-
7 2272. (a) Every instrument that conveys any estate or interest created by
8 any lease or easement involving wind *or solar* resources and technologies
9 to produce and generate electricity shall include:

10 (a) (1) A description of the real property subject to the easement and
11 a description of the real property benefitting from the wind *or solar* lease
12 or easement;

13 (b) (2) a description of the vertical and horizontal angles, expressed
14 in degrees, and distances from the site of the wind *or solar* power system
15 in which an obstruction to the wind *or solar* power system is prohibited or
16 limited;

17 (c) (3) all terms or conditions under which the lease or easement is
18 granted or may be terminated, except that if the instrument is recorded
19 under K.S.A. 58-2221, and amendments thereto, any compensation
20 received by the owner of the real property may be excluded; and

21 (d) (4) any other provisions necessary or desirable to execute the
22 instrument.

23 (b) *No interest in any resource located on a tract of land and solely*
24 *associated with the production or potential production of wind or solar-*
25 *generated energy on the tract of land may be severed from the surface*
26 *estate except that such rights may be leased for a definite term. Leasing*
27 *arrangements for development of wind or solar power systems may be*
28 *made only with the legally authorized owner of the surface estate*
29 *pursuant to the restrictions provided by this act or otherwise provided by*
30 *law.*

31 (c) *The provisions of this act shall not apply to any property owner*
32 *utilizing wind or solar energy power systems for domestic use only or to*

Comment [1]: No person other than the surface owner of a tract of land shall have the right to use such land for the production of wind or solar generated energy unless granted such right by the lawful owner of the surface estate by lease or easement for a definite period.

Comment [2]: subsection (b)

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HB 2141 Proposed Amendment
Rep. C. Holmes
2/15/2011

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~~any tract of land severed~~ prior to July 1, 2011.

Sec. 2. K.S.A. 58-2272 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Comment [3]: lease or easement filed of record

Comment [4]: , with the register of deeds of the county in which the tract is located

Comment [5]: (d) Nothing in this section shall be construed to affect any otherwise enforceable restriction on the use of any tract of land for the production of wind or solar energy whether or not such restriction is in the form of an easement for a definite term.

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RESOURCES BUDGET
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JOINT COMMITTEE ON ENERGY
AND ENVIRONMENT

Testimony on HB 2143- Energy Storage
House Energy & Utilities Committee

February 15, 2011

Mr. Chairman, Members of the Committee:

Energy Storage devices come in many forms (e.g., compressed air storage, fly wheels, batteries) and serve many purposes (e.g., voltage support, generation intermittency mitigation, distribution system support, transmission system TLR mitigation).

HB 2143 was introduced for two reasons: 1) The KCC already has procedures and rules for considering utility investments in generation, transmission, distribution/administration investments. But, as was noted above, energy storage does not fit neatly into any of those categories – it can serve any of them, but is not any of them (i.e., it does not generate electricity, but serves the generation load); 2) the bill is a follow-up to a letter sent by the Committee to the KCC asking how it would handle storage for cost-recovery purposes. The response was that the Commission would wait for a utility filing a pre-determination request before making a determination. Why would a utility spend money determining whether an energy storage facility would alleviate a system problem if they do not know whether the KCC will even consider it a viable technology? HB 2143 seeks to provide certainty to the utilities that energy storage is a viable and frequently cost-effective technology and that the KCC will address cost-recovery based on the service provided.

How is energy storage treated in other jurisdictions? In Texas, regulators permitted cost-recovery of a \$25 million energy storage facility because it prevented the need for a \$75 million transmission system upgrade. In California, the Federal Energy Regulatory Commission (FERC) allowed cost-recovery as part of a transmission system upgrade.

In Minnesota, an energy storage facility serves to balance a wind farm's production and is considered generation. We have heard that KCPL's proposed energy storage facility will serve part of its distribution system. Both the Minnesota and Kansas City projects are being funded with federal dollars, but the on-going costs of operation will be included through generation and distribution system "charges."

Energy storage is expensive, but so too is new generation, transmission, and distribution upgrades. Energy storage is not appropriate for all situations, but it does have a role as evidenced above and will have an increasing role as new technologies are developed and storage

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devices go into more general production/use (e.g., similar to the decreasing costs of wind turbines and solar panels as production and technological advancements occur).

HB 2143 is a simple bill, it directs the KCC to consider investments in energy storage in the same manner as it treats the underlying investment that storage will serve – generation, transmission, distribution. It does not remove the Commission's responsibility to ensure that investments in energy storage are prudent – just as they must do for other capitol investments.

I appreciate your consideration of this bill and look forward to your questions.

Citizens' Utility Ratepayer Board

Board Members:

Nancy Jackson, Chair
A. W. Dirks, Vice-Chair
Carol I. Faucher, Member
Stephanie Kelton, Member
Kenneth Baker, Member



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HOUSE UTILITIES COMMITTEE H.B. 2143

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
February 15, 2011

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2143. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

Section 1 of H.B. 2143 greatly expands the existing regulatory preapproval statute, K.S.A. 66-1239. This statute was originally proposed based on the premise that large, capital intensive investments were now too risky for Kansas utilities to take on absent some level of regulatory certainty about what rate treatment would be allowed now and into the future. As designed, the statute applies to generation and transmission investments and requires the state corporation commission to make a decision on an application within 180 days. The regulatory principles set forth by the commission in that decision "shall" apply to every ratemaking proceeding thereafter. H.B. 2143 adds "*distribution facilities*" and "*energy storage devices*", as defined in the bill, to the statutory preapproval framework.

CURB opposed the bill that created the preapproval framework in K.S.A. 66-1239. CURB argued that preapproval moved financial risk from utilities to ratepayers without an adjustment to compensate ratepayers for accepting that risk. Further, requiring that preapproved rate principles be used in every future proceeding involving the generation or transmission facility at issue removed from future commission's all regulatory flexibility to adjust rates, as needed, to address current facts and circumstances. For example, 25 years after the Wolf Creek nuclear plant was put into consumer rates, the commission, based on current day evidence, changed the depreciation schedule on Wolf Creek from 40 years to 60 years. This change was appropriate based on contemporary evidence and saved ratepayers millions of dollars every year. This type of change could be precluded by a pre-approval order.

If the basis of the preapproval statute is to provide regulatory certainty when a utility is faced with a large, long-term capital expenditure, then CURB does not believe distribution facilities or energy storage devices fit into this category of resource. Nor do they carry the same level of financial risk. Where generation or transmission may cost more than a billion dollars, by comparison distribution resources and energy storage devices cost very little. If a Kansas utility needs regulatory preapproval for the level of expenditures necessary to upgrade distribution facilities or invest in energy storage devices, there are probably larger questions that should be asked by both the legislature and regulators. As such, CURB does not support the amendment proposed in this section of the bill.

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Section 2 of H.B. 2143 adds “*energy storage devices*” to the definition of “*appurtenances*” in K.S.A. 66-1240. Energy storage devices thereby become eligible for Kansas development finance authority bonds (K.S.A. 66-1241), cost recovery over 15 years (K.S.A. 66-1242) and state corporation commission oversight over the sale and lease to an independent transmission company (K.S.A. 66-1244). As noted above, energy storage devices cannot be considered large long-term capital investments. Adding energy storage devices to the types of assets that may be funded by Kansas development finance bonds seems misplaced, as does setting rate recovery arbitrarily over 15 years. As such, CURB does not support the amendment proposed in this section of the bill.

Section 3 of H.B. 2143 adds “*energy storage devices*” to the definition of “*appurtenances*” in K.S.A. 66-1247. Energy storage devices thereby become eligible to be included in the cost recovery mechanism for transmission created therein. To date, this statute has never been used. Nor does CURB anticipate this statute ever being used given the current cost recovery mechanisms established through the Southwest Power Pool with FERC approval. As such, while CURB does not support the amendment proposed in this section of the bill, it is neutral on whether the Committee chooses to make this amendment at this time.

For the above reasons, CURB does not support the proposed changes in existing law set forth in this bill and recommends the Committee vote against passing this bill at this time.