

MINUTES OF THE SENATE AGRICULTURE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on February 15, 2006 in Room 423-S of the Capitol.

All members were present except:

Steve Morris- excused
Derek Schmidt- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research
Lisa Montgomery, Office of Revisor of Statutes
Judy Seitz, Committee Secretary

Conferees appearing before the Committee:

Duane Simpson, Kansas Association of Ethanol Processors
Leslie Kaufman, Kansas Cooperative Council
Brad Harrelson, Kansas Farm Bureau
Jere White, Kansas Corn Growers Association/Kansas Grain Sorghum Producers Association

Others attending:

See attached list.

Hearings on **SB 543--Creation of the Kansas ethanol council** opened. Mr. Gilliland reviewed the membership representation, terms and election of officers. He also reviewed the powers, duties and function of the council. July 1, 2007 and every quarter the state treasurer will credit \$.0025 per gallon of ethanol produced in Kansas from the economic development initiative fund to the ethanol council. The Council and the fund are abolished on July 1, 2009.

Mr. Gilliland stood for questions.

Duane Simpson spoke in favor of **SB 543 (Attachment 1)**. The focus of the Council will be:

- ethanol production and industry support;
- market development;
- research and technology and
- public policy development.

The estimated annual budget will be \$500,000.

Chairman Taddiken requested that questions be held until all conferees have testified.

Leslie Kaufman offered testimony in support of **SB 543 (Attachment 2)**. She stated that the Kansas Cooperative Council supports initiatives which promote the use of renewable fuel sources such as ethanol, bio-diesel and e-diesel.

Brad Harrelson spoke as a proponent for **SB 543 (Attachment 3)**.

Conferees stood for questions.

No opponents spoke concerning **SB 543**.

Mr. Gilliland noted a redundancy on page 3, lines 5-8 and lines 13-15. The Chairman said there are several technical aspects of the bill which will need to be addressed.

Chairman Taddiken closed the hearing on **SB 543**.

Hearings were opened on **SB 544--Motor-vehicle fuel taxation, rates, ethanol blends**.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture at 8:30 a.m. on February 15, 2006 in Room 423-S of the Capitol.

Mr. Gilliland reviewed **SB 544** which amends a section of the law dealing with motor vehicle fuel tax. The bill also has a definition of E85 fuel.

Jere White spoke as a proponent for **SB 544** (Attachment 4), stating that the E85 user is being unfairly penalized. He offered a change in the definition of E85 fuels on page 4(w).

Chairman Taddiken said that written testimony in favor of **SB 544** was submitted by Brad Harrelson, Leslie Kaufman and Duane Simpson (Attachments 5, 6 & 7).

He also noted that a fiscal note on **SB 544** was handed out to the Committee. David Corbin and Edie Martin from the Kansas Department of Revenue (KDOR) took questions from the Committee.

Hearings on **SB 544** were closed.

Discussions were held on **SB 544**. Senator Pine made a motion to delete the current paragraph (w) line 15 on page 4 and insert, "E85 fuels means an alternative fuel that is a blend of denatured ethanol and hydrocarbon that typically contains 85% ethanol by volume, but at a minimum must contain 70% ethanol by volume and complies with ASTM specification D5798-99." Seconded by Senator Huelskamp. There was discussion on the motion. Motion carried.

Senator Francisco moved to change the \$11 per gallon on page 4, line 38, paragraph 4, to \$.11 per gallon. Seconded by Senator Bruce. Motion carried.

Senator Francisco made a motion to change the date on page 4, line 25 from July 1, 2006 to January 1, 2007. Senator Bruce seconded the motion. Motion passed.

Senator Huelskamp made a motion to report **SB 544** be passed as amended. Senator Bruce seconded the motion. Motion passed.

Meeting adjourned at 9:30 a.m.

The next meeting will be Monday, February 20, 2006.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 15, 2006

NAME	REPRESENTING
Duane Simpson	KAEP
CV Cotsoradiu	KDA
Ernie Dominguez	KDOC
Edie Martin	KDOR
Cindy Mongold	KDOR
Sandra Braden	Association of Auto Manufac
Leslie Kaufman	Ks Coop Council
BRAD HARRELSON	KFB
Carole Jordan	KDA
David R. Corbin	KDOR
JERE White	KGBA KGSOA
Estelle Montgomery	Hein Law Firm
Mandy Miller	Sen. Schmidt
Dennis Hupe	KSA
Ken Gudenkauf	KDOT



Ethanol - Made in Kansas

Association Of Ethanol Processors

Statement by the Kansas Association of Ethanol Processors In Support of SB 543 Senate Agriculture Committee February 15, 2006

Thank you Chairman Taddiken, and members of the Committee, my name is Duane Simpson I am Vice President of Government Affairs for the Kansas Association of Ethanol Processors. KAEP's membership includes all of the major ethanol processors in Kansas, representing 160 of the 170 million gallons produced in Kansas. On behalf of the members of KAEP, I am testifying in support of SB 543 which would create a Kansas Ethanol Council.

The Kansas Ethanol Council is a seven-member council appointed by the Governor representing all of the stakeholders in the ethanol industry. Specifically, there will be members representing the following categories: Ag producer At-Large, Corn/Sorghum Growers, Petroleum Marketers, Ethanol Processing Plants, Affiliated Manufacturers (companies that build ethanol plants and sell equipment to the plants), Ethanol Marketers, and Co-Product Marketers. In addition, three non-voting Ex-Officio members will advise the Council from: the KSU College of Agriculture, the KS Department of Agriculture, and the KS Department of Commerce.

The Council focuses on four key issues: 1) ethanol production and industry support, 2) market development, 3) research and technology, and 4) public policy development. Its mission is to encourage the production, sale and use of Kansas produced ethyl alcohol and its co-products; promote and develop markets for ethanol and its co-products; and provide for input from every aspect of the ethanol industry and allow the industry to speak with a single unified voice. The Council will coordinate efforts in the state to assist the Kansas ethanol industry. It will assist the development of ethanol plants in Kansas. It will identify and promote public policy that will improve ethanol availability in the wholesale market. The Council will provide public relations for the industry. It will promote ethanol to gasoline consumers. It will work with state universities and private industry to coordinate and fund research to advance the ethanol industry. Finally, it will serve as a clearinghouse for ethanol information to potential investors, state and local officials, the ethanol industry, farmers, the media and the general public.

The Kansas Ethanol Council would be funded through the Economic Development Incentive Fund. The estimated \$500,000 annual budget is based on \$0.0025 per gallon of ethanol produced in Kansas. It has been suggested by several legislators that an amendment to make the Council funded through the State General Fund would improve

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the bill. KAEP would be supportive of that amendment if this committee or the Ways and Means Committee members would prefer to use SGF funds instead of EDIF.

In addition, the Council will apply for public and private grants at the state and national level. The Council is modeled after both commodity commissions and the Nebraska Ethanol Board. Similar to the commissions, the Council would decide whether to hire their own staff or to contract with a private firm to provide services.

It should be noted that \$500,000 is a small price to further develop the ethanol industry in this state. A recent consulting study noted that a 40 million gallon ethanol plant increases the economic base of a community by \$110.2 million. It generates an additional \$19.6 million in household income; creates almost 700 permanent new jobs; creates at least \$1.2 million in new state and local tax revenue; and creates higher demand for locally produced grain resulting in a five to ten cent per bushel premium.

The bill contains a three year sunset so the total investment will be between \$1.5 and 2.0 million. If this program does not work as advertised, the Council will sunset without any further action by the Legislature.

Kansas' total investment in the ethanol industry pales in comparison to other agriculture states. This proposal would increase the state's total investment into ethanol to \$4 million per year. Illinois, by contrast, has a \$15 million grant fund to build new ethanol plants and a \$0.015 per gallon credit for every gallon sold in the state. Indiana has a \$10 million producer incentive. In Maine, all alternative fuels are exempt from the motor fuel tax. Maryland, Minnesota and Wisconsin all offer up to \$3 million per year to a single ethanol plant. Mississippi has a \$37 million ethanol incentive program. Oklahoma grants up to \$25 million per facility per year with a lifetime cap of \$125 million. And of course, there's Iowa where the Secretary of State, Chet Culver is running for Governor with \$100 million proposal to improve renewable fuel manufacturing. Kansas obviously cannot compete with every state on a dollar for dollar basis, we can however make sure that we get the most out of every state dollar invested.

Today, ethanol policy and promotion is divided among several not-for-profit entities and several state agencies. While we have been successful in increasing ethanol production and sales in Kansas, it is clear that we lag far behind our peer states. A unified voice for ethanol, which gets its direction from every segment of the industry, should be able to more effectively and efficiently improve the ethanol industry in Kansas. Thank you for your time and I'll stand for questions at the appropriate time.



Kansas Association of Ethanol Processors

Ethanol - **Made In Kansas**

Kansas Ethanol Council

What is it?

- A seven member council appointed by the Governor representing all of the stakeholders in the ethanol industry.
 - Ag producer At-Large
 - Corn/Sorghum Growers
 - Petroleum Marketers
 - Ethanol Processing Plants
 - Affiliated Manufacturers
 - Ethanol Marketers
 - Co-Product Marketers
- Three non-voting Ex-Officio Members to advise the Council
 - KSU College of Agriculture
 - KS Department of Agriculture
 - KS Department of Commerce

What will the Council's focus be?

- Ethanol production and industry support
- Market development
- Research and technology
- Public policy development.

What is the Council's mission?

- Encourage the production, sale and use of Kansas produced ethyl alcohol and its co-products.
- Promote and develop markets for ethanol and its co-products.
- Provide for input from every aspect of the ethanol industry and allow the industry to speak with a single unified voice.

What will the Council do?

- Coordinate efforts in the state to assist the Kansas ethanol industry.
- Assist the development of ethanol plants in Kansas.
- Identify and promote public policy that will improve ethanol availability in the wholesale market
- Provide public relations for the industry
- Promote ethanol to gasoline consumers
- Work with state universities and private industry to coordinate and fund research to advance the ethanol industry
- Serve as a clearinghouse for ethanol information to potential investors, state and local officials, the ethanol industry, farmers, the media and the general public

What does it cost?

- The estimated annual EDIF budget will be \$500,000.
- The KEC will receive \$0.0025 per gallon of ethanol produced in Kansas.
- The Council will also apply for public and private grants at the state and national level.

How will it operate?

- The Council is modeled after both commodity commissions and the Nebraska Ethanol Board.
- The Council would decide whether to hire their own staff or to contract with a private firm to provide services.



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Senate Committee on Agriculture

February 15, 2006

SB 543 - Establishing the Kansas Ethanol Council.

Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to comment today in support of SB 543. I am Leslie Kaufman, Executive Director of the Kansas Cooperative Council. As you know, the bill will establish the Kansas Ethanol Council.

The Kansas Cooperative Council represents all forms of cooperatively structured, member-owned/member-controlled businesses. We have nearly 200 members across Kansas. Approximately one-half of these members are engaged in grain storage and farm supply enterprises. These individual cooperatives are owned and controlled by farmers and ranchers.

The Kansas Cooperative Council has been supportive of many renewable fuel proposals based on policy language:

The KCC supports initiatives which promote the use of renewable fuel sources such as ethanol, bio-diesel and e-diesel.

The bill before you now creates the Kansas Ethanol Council. The Council will help pull together various state ethanol interests to foster a more unified approach to promotion, education, and advocacy in Kansas. We see this as an important step in further advancing the ethanol industry in this state.

A coordinated effort on advancing this renewable fuel can have some real positives for the state. Coordination can help identify the areas where we can reap the most benefit for our efforts. It can help identify project areas where we get the most "bang for our buck". The Council can provide a forum for developing a unified vision for Kansas' ethanol incentives.

Now is an ideal time for Kansas to take a step and create this Council: our Governor heads the Governors Ethanol Council; the President outlined a national vision for increasing renewable fuel production and use; and if you have watched any of the Olympic coverage, you are likely to have seen the "go yellow" grow corn/grow fuel commercials. We encourage the state to leverage this interesting in ethanol and create the Kansas Ethanol Council which could help propel us forward in the renewable fuels arena.

We respectfully request this Committee act favorably on SB 543. Thank you.

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2-15-06
Attachment 2

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

RE: SB 543 – an act creating the Kansas ethanol council.

February 15, 2006
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Taddiken, and members of the Senate Committee on Agriculture, thank you for the opportunity to appear today and offer testimony in support of 543. 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 it's 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 ethanol fuel consumption.

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

A coordinated, well thought out, reasonable approach to ethanol production, consumption and promotion makes good sense. Leadership provided through partnership among industry stakeholders and government officials could provide vision

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Attachment 3

and direction that is sorely needed and would benefit agriculture, the ethanol industry and all citizens of Kansas.

In conclusion, we respectfully encourage your support of SB 543. Kansas Farm Bureau stands ready to serve a contributing role in the development of the Kansas Ethanol Council and offer our assistance as you consider this important measure. Thank you.



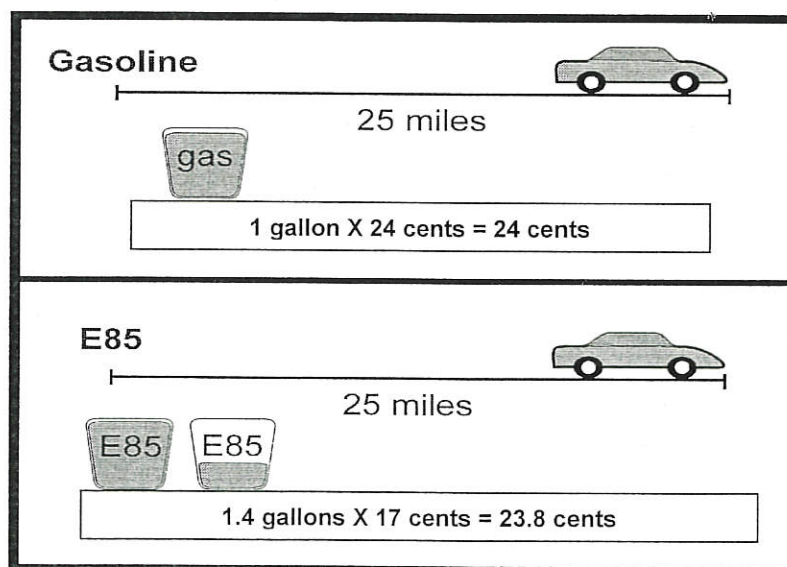
TESTIMONY

TO: Senate Agriculture Committee
FROM: Jere White, Executive Director
DATE: 15 February 2006
SUBJECT: S.B. 544

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association appear before this committee today to stand in strong support for S.B. 544.

In Kansas, where the state motor fuel tax is the same for gasoline and E85 and based on a per gallon fee, the E85 user is being unfairly penalized by electing to purchase E85 instead of gasoline. Rather than encouraging the use of a cleaner-burning, renewable-based, American-made gasoline alternative, Kansas rules result in the E85 user paying more per mile in road taxes than gasoline or diesel fuel users.

Fuels vary by their respective energy contents. This is true whether one is comparing diesel, gasoline, E85, propane, hydrogen, natural gas or others. For instance, a gallon of gasoline may contain 120,000 British thermal units (BTUs) of energy, while a gallon of E85 will contain 86,000 BTUs. This is an approximate 29% reduction in energy content compared to gasoline. In operation, it translates to a lesser distance traveled by a vehicle fueling on E85 compared to that same vehicle fueled with gasoline. If a state motor fuel tax is the same for gasoline and E85 and based on a per gallon fee, as it is in Kansas today, the E85 user is being unfairly penalized.



*Senate Agriculture
 Committee
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Attachment 4

We would respectfully suggest a change in the definition of E85 found on page 4 (w) to ***“E85 fuels” mean an alternative fuel that is a blend of denatured ethanol and hydrocarbon that typically contains 85% ethanol by volume, but at a minimum must contain 70% ethanol by volume and complies with ASTM specification D5798-99.***

Mr. Chairman, members of this committee, S.B. 544 corrects an inequity in road use taxes that penalizes users of E85. While E85 is a very small part of Kansas fuel sales, we hope to see it grow and are implementing programs to help that happen. Passage of S.B. 544 is something that the legislature can do to be a part of this expansion. Drivers committing to use alternative energy should not be penalized for that choice in Kansas. Thank you.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

**RE: SB 544 – an act concerning motor-vehicle fuel taxation;
relating to rates; ethanol blends.**

**February 15, 2006
Topeka, Kansas**

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

Chairman Taddiken, and members of the Senate Committee on Agriculture, thank you for the opportunity to appear today and offer testimony in support of 544. 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 it's past support for bio-fuels. 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 E85 ethanol blends.

E85 has tremendous upside not only for ag producers, but also fuel consumers. Consumption of ethanol fuel reduces our dependence on foreign oil and enhances market demand for corn, sorghum and other crops, which is good for Kansas agriculture, and the rural Kansas economy.

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Attachment 5*

That's why putting new ethanol incentives in place are important, and consistent with Kansas Farm Bureau policy. We believe that the motor-vehicle fuel tax structure as contemplated in SB 544 is appropriate, and indeed, more fair given the beneficial energy output provided by E85. To the extent that SB 544 promotes and stimulates acceptance and consumption of a valuable, renewable energy resource we lend our support.

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



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Senate Committee on Agriculture

February 15, 2006

SB 544 - Adjusting the state fuel tax to reflect differences in BTU relative to miles per gallon.

Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to comment today in support of SB 544. I am Leslie Kaufman, Executive Director of the Kansas Cooperative Council. As you know, the bill will establish the Kansas Ethanol Council.

The Kansas Cooperative Council represents all forms of cooperatively structured, member-owned/member-controlled businesses. We have nearly 200 members across Kansas. Approximately one-half of these members are engaged in grain storage and farm supply enterprises. These individual cooperatives are owned and controlled by farmers and ranchers.

The Kansas Cooperative Council has been supportive of many renewable fuel proposals based on policy language:

The KCC supports initiatives which promote the use of renewable fuel sources such as ethanol, bio-diesel and e-diesel.

The bill before you now adjusts the motor-vehicle fuel tax to better reflect the differences in BTU's relative to miles per gallon for E85 compared to other motor fuels. There are many positive benefits to using ethanol-based fuels. But for some, a down-side with E85 is a reduction in miles per gallon. SB 544 tries to equalize the tax application to account for the difference in mileage through establishing a differential reflective of the BTU content of various motor fuels. This, in-turn, should make ethanol's pricing more attractive.

We hope you will act favorably on this initiative. Thank you,

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Attachment 6



Ethanol - Made in Kansas

Association Of Ethanol Processors

Statement by the Kansas Association of Ethanol Processors In Support of SB 544 Senate Agriculture Committee February 15, 2006

Thank you Chairman Taddiken, and members of the Committee, my name is Duane Simpson, I am Vice President of Government Affairs for the Kansas Association of Ethanol Processors. KAEP's membership includes all of the major ethanol processors in Kansas, representing 160 of the 170 million gallons produced in Kansas. On behalf of the members of KAEP, I am testifying in support of SB 544 which would tax E-85 fuel at the same rate as regular unleaded on a mile driven basis.

The bill would reduce E-85 motor fuel taxes by \$0.07 per gallon. The reduction keeps the state from receiving a tax windfall when motorists switch to E-85. E-85 has a lower BTU value than regular unleaded fuel leading to reduced miles per gallon. Since motor fuel taxes are user fees intended to pay for the roads, it only makes sense that the tax on E-85 should reflect the number of miles driven not the number of gallons consumed.

In addition, the \$0.07 per gallon reduction will serve as an incentive to help drive demand for E-85 fuel. That higher demand will lead to increased availability. With more E-85 available, total ethanol use will increase in the state.

There is a typo in the bill on page 4, line 38. In 2020, the tax on E-85 should drop to \$0.11 per gallon with the conclusion of the Comprehensive Transportation Program. The bill makes the tax \$11 per gallon.

SB 544 will treat E-85 fairly and promote more ethanol use in the state with a negligible cost to the state. I urge the committee to support the bill and will stand for questions at the appropriate time.

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Attachment 7