Approved: : March 28, 2007
Date

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 22, 2007 in Room 241-N of the Capitol.

All members were present except:
Forrest Knox, excused

Committee staff present:
Mary Galligan, Kansas Legislative Research
Renae Hansen, Committee Assistant

Conferees appearing before the committee:
Senator Terry Bruce
Duane Simpson, Kansas Association of Ethanol Processors
Dennis Hupe, KS Soybean Association
Tom Palace, Petroleum Marketers
Jere White, Kansas Corn Growers & Kansas Grain Sorghum Producers
Brad Harrelson, Farm Bureau
Leslie Kaufman, Kansas Cooperative Council
Sandy Braden, Alliance of Automobile Manufacturers

Others attending:
Twenty-eight including the attached list.

Hearing on:

SB 327 **Renewable fuels; income tax credits.**

Senator Terry Bruce, (Attachment 1) spoke in favor of **SB 327** noting some of the specifics that the bill encompasses. Additionally, he offered amendment suggestions (Attachment 2) to **SB 327.**

Questions were asked and comments made by Representatives: Carl Holmes, Peggy Mast, Annie Kuether, Tom Sloan, Richard Proehl, Tom Moxley, Terry McLachlan, and Don Myers.

Duane Simpson, Kansas Association of Ethanol Processors, (Attachment 3), offered testimony in support of **SB 327**, noting that a large percentage of ethanol produced in Kansas is produced from sorghum. Additionally, his testimony explains the amendment that Senator Terry Bruce suggested and was originally going to be offered on the Senate floor, but was retained for the House Committee to consider.

Dennis Hupe, KS Soybean Association, (Attachments 4), gave testimony in support of **SB 327**. He noted that Willie Nelson has helped spur the need for bio-diesel by the trucking industry nationally.

Tom Palace, Petroleum Marketers, (Attachment 5), spoke in favor of **SB 327** noting some of the differences between Kansas and surrounding states, suggesting that Kansas needs to move forward to make bio-fuels more available to the consumer.

Jere White, Kansas Corn Growers & Kansas Grain Sorghum Producers, (Attachment 6), offered testimony in support of **SB 327**. He spoke on the issue of the energy content of E-85 versus the traditional fossil fuels' energy content.

Written:

Brad Harrelson, Farm Bureau, (Attachment 7), presented written testimony to the committee in support of **SB 327**,

Leslie Kaufman, Kansas Cooperative Council, (Attachment 8), offered written testimony in support of **SB 327**.

Questions were asked and comments made by Representatives: Tom Hawk, Carl Holmes, Tom Moxley, Oletha Faust-Goudeau, Rob Olson, and Tom Sloan.

Hearing on **SB 327** was closed.

Sub SB 20: **Kansas underground utility prevention act amendments.**

Representative Tom Sloan shared with the committee (Attachment 9) an amendment he will offer on the house floor when **Sub SB 20** is heard and worked on the house floor.

Sub SB 325 **State corporation commission jurisdiction over gas gathering systems.**

Representative Tom Sloan moved that the committee recommend **Sub SB 325** favorable for passage. Seconded by Representative Annie Kuether.

Discussion ensued by Representatives: Josh Svaty, and Tom Sloan.

Motion carried.

Representative Bill Light will carry **Sub SB 325** on the floor of the house.

HB 2576 **Regulation of Kansas City Board of Public Utilities by state corporation commission.**

Representative Carl Holmes reported that the conference committee on **HB 2032** was leery of the removal of the amended language of the senate.

Representative Tom Sloan moved to recommend **HB 2576** favorable for passage as amended March 21, 2007. Seconded by Representative Annie Kuether.

Questions were asked and comments made by Representatives: Rob Olson, Annie Kuether, Margaret Long, Josh Svaty, Don Myers, and Carl Holmes.

Representative Rob Olson moved to table the motion. Seconded by Representative Margaret Long. Motion to table the motion failed 6-10.

Discussion ensued by Representatives: Peggy Mast, Bill Light, and Terry McLachlan.

Chairman Holmes called the question.

Motion to move the **HB 2576** out of committee carried.

Representative Tom Sloan will carry **HB 2576** on the floor of the House.

The next meeting is scheduled for March 23, 2007.

Meeting adjourned.

HOUSE ENERGY AND UTILITIES COMMITTEE
GUEST LIST

DATE: March 22, 2007

NAME	REPRESENTING
Larry Berg	Midwest Energy
Colin Hansen	KMU
Jere White	KCGA
Ron Gaches	CBDA
Tom Day	KCC

TERRY BRUCE
STATE SENATOR
34TH DISTRICT
RENO COUNTY

STATE OF KANSAS

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
VICE CHAIR: JUDICIARY
MEMBER: JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE
AGRICULTURE
ASSESSMENT & TAXATION
NATURAL RESOURCES

Testimony on Senate Bill 327
before the House Utilities Committee

Mr. Chair and members of the Committee,

Our geographic location along with the available resources necessary to create alternative fuels places Kansas in the unique position to benefit from the production of ethanol and biodiesel. To realize the potential benefit at hand, we must recognize that a once in a lifetime opportunity exists for Kansas to capitalize on our opportunity, and we must have the resolve to make the appropriate investments in our state's future.

Economic Benefits of Alternative Fuels

New ethanol facilities have the benefit to revive Kansas' rural economy. A single 40 million gallon ethanol facility has the following impact on a local community:

A one-time gross output of $142.2 million and new household income of $46 million.
The local economy is expanded by $110.2 million each year.
An additional 5 to 10 cents per bushel increase in local prices.
The creation of 41 jobs at the facility and 694 jobs in the community.

The need to Develop Infrastructure

Despite these impressive figures and our desire to produce more alternative fuels, there are setbacks facing the industry. Currently, Kansas produces enough ethanol to supply 10% of our fuel needs. However, there are only 16 E-85 pumps in the state of Kansas. In order to increase the production of alternative fuels, and thereby increase economic development in rural Kansas, we must focus our attention on expanding the number of E-85 pumps and the use of biodiesel.

Although the legislature has heard numerous bills that promote alternative fuels over the last few sessions, Senate Bill 327 (SB 327) is the best way to dramatically promote alternative fuels in Kansas and it will instigate the availability of alternative fuels.

Current Bill Structure

SB 327, as currently written, creates two income tax incentives: one for "alternative fuels" and the other for biodiesel. Regarding the alternative fuels incentive, SB 327 creates a gradually increasing percentage standard. The standard requires filling stations to have at least 9% of its sales to be renewable fuel for the first year the tax incentive is in existence. During the last year of implementation in 2025, stations must meet a 25% standard.

HOME
401 E. SHERMAN
HUTCHINSON, KS 67501
620-662-6830

DISTRICT OFFICE
FORKER, SUTER & ROSE, LLC.
129 WEST SECOND AVE, SUITE 200
PO BOX 1868 • HUTCHINSON, KS 67504-1868
PHONE: 620-663-7131 • FAX: 620-669-0714

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If a station meets the required percentage for that tax year, it will be able to receive a income tax credit of 6.5 cents for each gallon of renewable fuel sold. If a station misses the requirement for that year by less than 2%, it will be able to receive an income tax credit of 4.5 cents for each gallon of renewable fuel sold. If a station misses the requirement for that year by more than 2% but less than 4%, it will be able to receive an income tax credit of 2.5 cents for each gallon of renewable fuel sold.

As for the biodiesel tax incentive, the bill creates a gradually increasing percentage standard. During the first year the income tax credit applies, 2% of a station's diesel sales must be from biodiesel in order to qualify. This standard peaks in the year 2025 when 25% of a station's sales must be from biodiesel. Any year in which a filling station meets the required percentage to qualify, it will receive a 3 cent income tax credit for each gallon of biodiesel sold.

An income tax credit received under Senate Bill 327 allows the taxpayer to deduct the credit from their tax liability. If the tax credit is greater than the tax liability, the taxpayer may elect to receive a refund or have the credit carried over to the next tax year. A business that operates more than one station has the option of filing separately for each location, or it can file jointly. This is to cut down on the amount of paperwork required for the taxpayer and the Department of Revenue.

Fiscal Note

After discussing the possible impact on the state, it was concluded that the worst possible impact this bill would have on state revenue would be $5 million. This would assume that all stations are in compliance each year, which is not possible. In all likelihood, considering the estimated compliance by retailers, it is more likely to be approximately $1.3 million.

The Department of Revenue produced a fiscal note estimating a $1.8 million fiscal note. This too is a fair estimate under the bill. The department's estimate assumes greater compliance with the renewable fuel standards than is predicted by the industry. I hope the department is right in this case, as the larger the fiscal note becomes means the greater economic impact for Kansas.

I am aware that much of this session is being controlled by how much can we afford. Given the economic benefits that just one, modest sized ethanol facility would generate, if SB 327 were to just produce the construction of one such facility, the fiscal note is more than offset.

Conclusion

I would suggest that the question is not how much does SB 327 cost. The question is how much would not doing something cost our state. Other states have made the appropriate steps to promote alternative fuels and they are reaping the benefits. Instead of waiting to play catch up, Kansas needs to lead in this venture, and SB 327 is the best way to accomplish this goal.

z327c2
ac327ballNo.2

ENERGY AND HOUSE UTILITIES
DATE: 3/22/2007
ATTACHMENT 2-1

SENATE BILL No. 327

By Senators Bruce, Apple, Betts, Emler, Goodwin, Haley, Jordan, Lynn, McGinn, Ostmeyer, Palmer, Petersen, Pine, Pyle, D. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Wilson and Wysong

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AN ACT relating to renewable fuel and energy; providing for certain income tax credits relating to renewable fuels.

incentives

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

Section 1. As used in this act:

(a) "Biodiesel" means ~~a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from vegetable oils or animal fats and that meets American society for testing and materials specification D6751-02 for biodiesel fuel (B100) blend stock for distillate fuels~~ ***the same as provided in K.S.A. 55-443, and amendments thereto***;

(b) "diesel" means any liquid, other than gasoline and biodiesel, which is used as fuel for use in an internal combustion engine and ignited by pressure without the presence of an electric spark;

(c) "gasoline" means any liquid product sold as motor fuel for use in a spark-ignition internal combustion engine;

(d) "motor fuel" means any inflammable liquid by whatever name such liquid shall be known or sold, which is used, or practically or commercially usable, either alone or when mixed or combined in an internal-combustion engine for the generation of power;

(e) "motor fuel pump" means a commercial measuring device used to measure and dispense motor fuel or special fuels on a retail basis;

(f) "renewable fuels" means a combustible liquid derived from grain starch, oil seed, animal fat or other biomass; or produced from biogas source, including any nonfossilized, decaying, organic matter which is capable of powering spark-ignition machinery; and

(g) "retail dealer" means a seller of motor fuel or special fuels at retail.

Kansas

See attached

And renumber remaining sections accordingly

Sec. 2. (a) For taxable years commencing after December 31, ~~2007~~ ***2008***, any taxpayer who is a retail dealer of motor fuel shall be eligible for a renewable fuels tax credit which is a credit against the taxpayer's tax liability under the Kansas income tax act as provided in this section.

A

paid an incentive for the selling or dispensing or renewable fuels through a motor fuel pump

(b) In order to be eligible for such tax credit all of the following must

incentive

Sec. 2. (a) On January 1, 2009, and quarterly thereafter, the director of accounts and reports shall transfer $500,000 from the state general fund to the Kansas retail dealer incentive fund.

(b) There is hereby created in the state treasury the Kansas retail dealer incentive fund. All moneys in the Kansas retail dealer incentive fund shall be expended by the secretary of the department of revenue for the payment of incentives to Kansas retail dealers who sell and dispense renewable fuels or biodiesel through a motor fuel pump in accordance with the provisions of this act.

(c) All moneys remaining in the Kansas retail dealer incentive fund upon the expiration of this act shall be credited by the state treasurer to the state general fund.

2-3

apply:

(1) The taxpayer is a retail dealer who sells and dispenses renewable fuels through a motor fuel pump in the tax year in which the tax credit is claimed.

quarter

incentive

(2) The retail dealer complies with requirements of the department of revenue to administer this section.

(c) In order to receive the tax credit, the retail dealer must calculate all of the following:

incentive

(1) The retail dealer's renewable fuels distribution percentage which is the sum of the retail dealer's total renewable fuels blended into gasoline expressed as a percentage of the retail dealer's total gasoline gallonage, in the retail dealer's applicable determination period.

(2) The retail dealer's renewable fuels threshold percentage is as follows:

~~(A) For a retail dealer who sells and dispenses more than 100,000 gallons of gasoline in an applicable determination period, the retail dealer's renewable fuels threshold percentage is as follows:~~

~~(i) Ten percent for the determination period beginning on January 1, 2008, and ending December 31, 2008;~~

~~(ii) eleven percent for the determination period beginning on January 1, 2009, and ending December 31, 2009;~~

~~(iii) twelve percent for the determination period beginning on January 1, 2010, and ending December 31, 2010;~~

~~(iv) thirteen percent for the determination period beginning on January 1, 2011, and ending December 31, 2011;~~

~~(v) fourteen percent for the determination period beginning on January 1, 2012, and ending December 31, 2012;~~

~~(vi) fifteen percent for the determination period beginning on January 1, 2013, and ending December 31, 2013;~~

~~(vii) sixteen percent for the determination period beginning on January 1, 2014, and ending December 31, 2014;~~

~~(viii) seventeen percent for the determination period beginning on January 1, 2015, and ending December 31, 2015;~~

~~(ix) eighteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016;~~

~~(x) nineteen percent for the determination period beginning on January 1, 2017, and ending December 31, 2017;~~

~~(xi) twenty percent for the determination period beginning on January 1, 2018, and ending December 31, 2018;~~

~~(xii) twenty-one percent for the determination period beginning on January 1, 2019, and ending December 31, 2019;~~

~~(xiii) twenty-two percent for the determination period beginning on January 1, 2020, and ending December 31, 2020;~~

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~~(xiv) twenty-three percent for the determination period beginning on January 1, 2021, and ending December 31, 2021;~~

~~(xv) twenty-four percent for the determination period beginning on January 1, 2022, and ending December 31, 2022, and~~

~~(xvi) twenty-five percent for each determination period beginning on and after January 1, 2023.~~

~~(B) For a retail dealer who sells and dispenses 100,000 gallons of gasoline or less in an applicable determination period, the renewable fuels threshold percentages shall be:~~

~~(i) Six percent for the determination period beginning on January 1, 2008, and ending December 31, 2008;~~

~~(ii) six~~ ***(A) Nine*** percent for the determination period beginning on January 1, 2009, and ending December 31, 2009;

~~(iii)~~ *(B)* ten percent for the determination period beginning on January 1, 2010, and ending December 31, 2010;

~~(iv)~~ *(C)* eleven percent for the determination period beginning on January 1, 2011, and ending December 31, 2011;

any quarter of

~~(v)~~ *(D)* twelve percent for the determination period beginning on January 1, 2012, and ending December 31, 2012;

~~(vi)~~ *(E)* thirteen percent for the determination period beginning on January 1, 2013, and ending December 31, 2013;

~~(vii)~~ *(F)* fourteen percent for the determination period beginning on January 1, 2014, and ending December 31, 2014;

~~(viii)~~ *(G)* fifteen percent for the determination period beginning on January 1, 2015, and ending December 31, 2015;

~~(ix)~~ *(H)* sixteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016;

any quarter of

~~(x)~~ *(I)* seventeen percent for the determination period beginning on January 1, 2017, and ending December 31, 2017;

~~(xi)~~ *(J)* eighteen percent for the determination period beginning on January 1, 2018, and ending December 31, 2018;

~~(xii)~~ *(K)* nineteen percent for the determination period beginning on January 1, 2019, and ending December 31, 2019;

~~(xiii)~~ *(L)* twenty percent for the determination period beginning on January 1, 2020, and ending December 31, 2020;

~~(xiv)~~ *(M)* twenty-one percent for the determination period beginning on January 1, 2021, and ending December 31, 2021;

~~(xv)~~ *(N)* twenty-two percent for the determination period beginning on January 1, 2022, and ending December 31, 2022;

any quarter of

~~(xvi)~~ *(O)* twenty-three percent for the determination period beginning on January 1, 2023, and ending December 31, 2023;

~~(xvii)~~ *(P)* twenty-four percent for each determination period beginning on and after January 1, 2024, and ending December 31, 2024; and

any quarter of the

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~~(xviii)~~ *(Q)* twenty-five percent for each determination period beginning on and after January 1, 2025.

any quarter of

(d) The tax credit may be calculated separately for each retail motor fuel site from which the retail dealer sells and dispenses renewable fuel or may be calculated for all retail motor fuel sites which the retail dealer has in Kansas that sells and dispenses renewable fuels.

incentive

(e) For a retail dealer whose tax year is the same as a determination period beginning on January 1 and ending on December 31, the retail dealer's tax credit is calculated by multiplying the retail dealer's total renewable fuel gallonage by a tax credit rate, which may be adjusted based on the retail dealer's renewable fuels threshold percentage disparity. The tax credit rate is as follows:

incentive

an incentive

incentive

(1) For any tax year in which the retail dealer has attained a renewable fuels threshold percentage for the determination period, the tax credit rate is 6½ ¢.

quarter

incentive

(2) For any tax year in which the retail dealer has not attained a renewable fuels threshold percentage for the determination period, the tax credit rate shall be adjusted based on the retail dealer's renewable fuels threshold percentage disparity. The amount of the adjusted tax credit rate is as follows:

quarter

incentive

(A) If the retail dealer's renewable fuels threshold percentage disparity equals two percent or less, the tax credit rate is 4½¢.

(B) If the retail dealer's renewable fuels threshold percentage disparity equals more than two percent but not more than four percent, the tax credit rate is 2½¢.

(C) A retail dealer is not eligible for a tax credit if the retail dealer's renewable fuels threshold percentage disparity equals more than four percent.

an incentive

(f) For a retail dealer whose tax year is not the same as a determination period beginning on January 1 and ending on December 31, the retail dealer shall calculate the tax credit twice, as follows:

(1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection (e).

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection (e).

(g) Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

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(h) An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

(i) The provisions of this section shall expire on January 1, 2026.

(g)

Sec. 3. (a) For taxable years commencing after December 31, ~~2007~~ ***2008***, any taxpayer who is a retail dealer of biodiesel shall be eligible for a biodiesel tax credit which is a credit against the taxpayer's tax liability under the Kansas income tax act as provided in this section.

A

paid an incentive for the selling or dispensing of biodiesel

(b) In order to be eligible for such tax credit all of the following must apply:

incentive

(1) The taxpayer is a retail dealer who sells and dispenses biodiesel in the tax year in which the tax credit is claimed.

quarter

incentive

(2) The retail dealer complies with requirements of the department of revenue to administer this section.

(c) In order to receive the tax credit, the retail dealer must calculate the following:

(1) The retail dealer's biodiesel distribution percentage which is the sum of the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total diesel and biodiesel gallonage, in the retail dealer's applicable determination period.

(2) The retail dealer's biodiesel threshold percentage is as follows:

~~(A) Two percent for the determination period beginning on January 1, 2008, and ending December 31, 2008;~~

~~(B) three~~ *(A)* ***Two*** percent for the determination period beginning on January 1, 2009, and ending December 31, 2009;

~~(C)~~ *(B)* ~~five~~ ***four*** percent for the determination period beginning on January 1, 2010, and ending December 31, 2010;

~~(D)~~ *(C)* ~~six~~ ***five*** percent for the determination period beginning on January 1, 2011, and ending December 31, 2011;

any quarter of

~~(E)~~ *(D)* seven percent for the determination period beginning on January 1, 2012, and ending December 31, 2012;

~~(F)~~ *(E)* ~~nine~~ ***eight*** percent for the determination period beginning on January 1, 2013, and ending December 31, 2013;

~~(G)~~ *(F)* ten percent for the determination period beginning on January 1, 2014, and ending December 31, 2014;

~~(H)~~ *(G)* ~~twelve~~ ***eleven*** percent for the determination period beginning on January 1, 2015, and ending December 31, 2015;

any quarter of

~~(I)~~ *(H)* thirteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016;

~~(J)~~ *(I)* fourteen percent for the determination period beginning on January 1, 2017, and ending December 31, 2017;

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~~(K)~~ *(J)* sixteen percent for the determination period beginning on January 1, 2018, and ending December 31, 2018;

~~(L)~~ *(K)* eighteen percent for the determination period beginning on January 1, 2019, and ending December 31, 2019;

any quarter of

~~(M)~~ *(L)* twenty percent for the determination period beginning on January 1, 2020, and ending December 31, 2020;

~~(N)~~ *(M)* twenty-one percent for the determination period beginning on January 1, 2021, and ending December 31, 2021;

~~(O)~~ *(N)* twenty-two percent for the determination period beginning on January 1, 2022, and ending December 31, 2022;

~~(P)~~ *(O)* twenty-three percent for the determination period beginning on January 1, 2023, and ending December 31, 2023;

~~(Q)~~ *(P)* twenty-four percent for the determination period beginning on January 1, 2024, and ending December 31, 2024; and

any quarter of

~~(R)~~ *(Q)* twenty-five percent for the determination period beginning on January 1, 2025, and ending December 31, 2025.

(d) The tax credit may be calculated separately for each retail motor fuel site from which the retail dealer sells and dispenses biodiesel or may be calculated for all retail motor fuel sites which the retail dealer has in Kansas that sells and dispenses biodiesel.

incentive

(e) For a retail dealer whose tax year is the same as a determination period beginning on January 1 and ending on December 31, the retail dealer's tax credit is calculated by multiplying the retail dealer's biodiesel gallonage by the tax credit rate for any tax year in which the retail dealer has attained a biodiesel threshold percentage for the determination period, the tax credit rate is 3 ¢.

incentive

quarter

incentive

(f) For a retail dealer whose tax year is not the same as a determination period beginning on January 1 and ending on December 31, the retail dealer shall calculate the tax credit twice, as follows:

(1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection (e).

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection (e).

(g) Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

(h) An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the

2-8

income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

(i) The provisions of this section shall expire on January 1, 2026.

(f)

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

See attached

And renumber the remaining section accordingly

2-9

Sec. 5. (a) The retail dealer shall file r the incentive for selling or dispensing r renewable fuels or biodiesel beginning January 1, 2009, and quarterly thereafter, on a form furnished by the department of revenue. The form shall require the retail dealer to file such information as the secretary of revenue may require by rules and regulations, but shall include the total number of gallons of renewable fuels or biodiesel fuels sold.

(b) The secretary of revenue may adopt rules and regulations necessary to administer the provisions of this act, including the development of a procedure for the payment of the incentive.

Kansas AEP

Ethanol - *Made in Kansas*

Association Of Ethanol Processors

Statement in Support of SB 327
House Energy and Utilities Committee
Carl Holmes, Chair
March 21, 2007

Thank you, Mr. Chairman and Members of the Committee, my name is Duane Simpson; I am the Vice President of Government Affairs for the Kansas Association of Ethanol Processors. KAEP is the trade association that represents ethanol plants and their affiliated industries in the state. On behalf of the members of KAEP I am testifying in support of SB 327.

As amended, SB 327 gives a 6.5 cent per gallon incentive for every gallon of renewable fuel blended into gasoline as long as the retailer meets the Renewable Fuel Standard (RFS) for that tax year. The incentive goes into effect in 2009 at 9% and increases 1% per year until 2025 when the Renewable Fuels Standard is 25%. If a retailer misses the RFS by 2% or less, they qualify for a 4.5 cent per gallon incentive. If they miss by 2-4% they qualify for 2.5 cents per gallon. The table below shows some examples of how retailers will qualify for the incentives.

		Retailer RFS Incentive Payment				
Station A		2008	2009 & 2010	2011 & 2012	2013 - 2025	
Total Gasoline Gallons	1,000,000	$0	$3,600	$2,000	$0	
80% of gallons are E-10	80,000					
No E-85 sales	0					
Total Ethanol Sales	80,000		$0.045 / gal	$0.025 / gal		
RFS Threshold	8%					
Station B		2008	2009 & 2010	2011 & 2012	2013 & 2014	2015 - 2025
Total Gasoline Gallons	1,000,000	$0	$6,500	$4,500	$2,500	$0
100% of gallons are E-10	100,000					
No E-85 sales	0					
Total Ethanol Sales	100,000		$0.065 / gal	$0.045 / gal	$0.025 / gal	
RFS Threshold	10%					
Station C		2008	2009 - 2012	2013 & 2014	2015 & 2016	2017 - 2025
Total Gasoline Gallons	1,000,000	$0	$7,963	$5,513	$3,063	$0
80% of Gallons are E-10	80,000					
5% of Gallons are E-85	42,500					
Total Ethanol Sales	122,500		$0.065 / gal	$0.045 / gal	$0.025 / gal	
RFS Threshold	12%					

ENERGY AND HOUSE UTILITIES

DATE: 3/22/2007

ATTACHMENT 3-1

KAEP, 816 SW Tyler, Topeka, KS 66612, 785-234-0461, Fax 785-234-2!

Station D		2008	2009 - 2021	2022 & 2023	2024 & 2025
Total Gasoline Gallons	1,000,000	$0	$13,813	$9,563	$5,313
85% of Gallons are E-10	85,000				
15% of Gallons are E-85	127,500				
Total Ethanol Sales	212,500		$0.065 / gal	$0.045 / gal	$0.025 / gal
RFS Threshold	21%				

Station E		2008	2009 - 2025
Total Gasoline Gallons	1,000,000	$0	$16,250
80% of Gallons are E-10	80,000		
20% of Gallons are E-85	170,000		
Total Ethanol Sales	250,000		$0.065 / gal
RFS Threshold	25%		

For biodiesel, the RFS is set as a percentage of biodiesel gallons divided by total diesel gallons. Biodiesel retailers get a straight 3 cents per gallon if they meet their RFS schedule. The RFS schedule is below:

Calendar Year	Percent Required
2009	2%
2010	4%
2011	5%
2012	7%
2013	8%
2014	10%
2015	11%
2016	13%
2017	14%
2018	16%
2019	18%
2020	20%
2021	21%
2022	22%
2023	23%
2024	24%
2025	25%

The Senate amended the bill to allow motor fuel retailers qualify and receive the incentive on a quarterly basis. This change will allow the retailer to price the incentive into the fuel they market so that the consumer will benefit. In addition, a retailer might not be able to sell ethanol or biodiesel for a short period of time due to price instability, the Senate amendment allows that retailer to immediately qualify in the next quarter.

The bill has no fiscal note for FY 2008. The bill is only in effect for half of FY 2009, so the fiscal note is $1 million. In FY 2010 and beyond the fiscal note is $2 million per year. The incentive sunsets on January 1, 2026.

KAEP believes that the time has come for the state to start considering whether or not we are going to be a state that either through incentives or mandates requires the petroleum industry to provide ethanol access to the wholesale market. Currently, several terminal facilities in the state do not provide ethanol to retailers. The oil industry has limited resources throughout the nation to upgrade terminal facilities to provide ethanol. Understandably, they are focusing their attention on states that mandate ethanol blended fuel. If Kansas is to attract the capital from these companies to upgrade our fuel distribution facilities, we must compete with other states that are passing mandates. The refineries have told us that they view SB 327 as a *de facto* mandate and that this bill would be sufficient to spur the development necessary to make ethanol available to retailers that wish to sell it.

If Kansas wants to see the continued growth of the ethanol industry in this state, we must provide a local market for the fuel. Currently, most ethanol made in Kansas is sold in Texas, Colorado and California. Our plants enjoy a transportation advantage over Iowa and Minnesota plants to these markets, but ethanol plants are being built in Texas and California that will obviously have a similar advantage over Kansas plants. Without access to the distribution market, future ethanol plants in Kansas will not be built because outside venture capital will not believe the plants are economically viable.

This bill is the work of months of negotiation and work with Senator Bruce a group of stakeholders representing ag groups, the ethanol industry, the petroleum industry, the trucking industry and automobile manufacturers.

We believe that this bill is a major step forward in keeping Kansas competitive for new ethanol plants and it is also necessary to get ethanol from Kansas plants to Kansas consumers. We urge the committee to support SB 327 and I will stand for questions at the appropriate time.

KANSAS SOYBEAN ASSOCIATION

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Kansas House Energy and Utilities Committee Hearing
March 22, 2007
Testimony on Senate Bill 327

Chairman Holmes and members of the Kansas House Energy and Utilities Committee, my name is Dennis Hupe and I serve as the Director of Field Services for the Kansas Soybean Association (KSA). I am here to offer our support for Senate Bill 327.

As part of our scope of work we travel the state promoting the use of biodiesel in agriculture, transportation, and by school districts as an alternative, renewable, and cleaner burning fuel. The attitude of those that stop by to talk to us about biodiesel has changed. The discussion has gone from saying that it looks like a good idea and they hope it works, to asking where it is available and what the cost is. Most express their displeasure of sending money overseas to a foreign country for our transportation fuels.

With current and future risks to the United States energy security increasing, domestic and global energy demands growing dramatically, Kansas soybean farmers and other agricultural producers in Kansas are well positioned to play an expanded role in producing transportation fuels.

The Kansas legislature acted on this concern last year when it passed HCR 5042, the 25 X '25 legislation that sets a goal of having 25% of our fuel energy coming from renewable energy sources by 2025. Now it is time to put some of the pieces in place to obtain that goal. This legislation takes action with a scaled up utilization system working through incentives toward meeting the goals of the 25 X '25 legislation. SB 327 is one step in helping reach that goal.

The provisions in SB 327 provide incentives for the development our current fuel marketing system, the petroleum distribution/ retailer system to help biodiesel to continue to emerge as a mainstream fuel.

KSA supports the RFS scheduled implementation date of January 1, 2009 to allow the industry time to make the necessary infrastructure investments. If there is a problem with annual payments to the retailers we would support an amendment that allows for monthly payments to be filed along with their motor fuels tax.

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This is not a mandate; it is an incentive with minimal budget impact. This is a way to grow the biodiesel and ethanol industry without mandates. Our producers support an incentive based approach of developing an alternative fuel industry. A renewable fuel tax credit is a vision that will provide agriculture with increased farm income and added value uses. It is a good idea.

Under the definition of biodiesel under (a) we would like to see the following used from current law:

55-443

Chapter 55.--OIL AND GAS

Article 4.--PETROLEUM PRODUCTS INSPECTION

(11) ...Biodiesel fuel used in biodiesel fuel blends shall conform with specification D6751-02, issued March 2002, by the American society of testing and materials or a later version as adopted by rules and regulations of the secretary...

and keeping the definition for "renewable fuels" under (f) as is.

Thank you for the opportunity to address the committee on this issue.

PMCA
of Kansas

Memo To: House Energy and Utilities Committee
From: Thomas M. Palace
Date: March 22, 2007
Re: SB 327

Mr. Chairman and members of 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.

Please accept my written testimony in support of SB 327.

Senate Bill 327 establishes a Renewable Fuel Standard (RFS) that will offer income tax credit for retail motor fuel retailers selling and dispensing renewable fuels. PMCA supports the expansion of renewable fuels for both ethanol and biodiesel fuel. We feel Kansas has made great strides in the past few years promoting the use of ethanol by way of tax incentives to build state-of-the art ethanol plants, and by requiring the state's vehicle fleet to use these products if the price of the fuel is within the acceptable levels.

Consumers today are "price sensitive" and ethanol today is not "price sensitive." Driving consumers will drive several miles or more, to save 2-3 cents on a gallon of gas. If ethanol is priced right (by that I mean lower than the price of regular gasoline) consumers will buy ethanol. If SB 327 would guarantee the price of ethanol would always be lower than the cost of gasoline, there would be no need for tax incentives.

Mr. Chairman, petroleum retailers will sell whatever the consumer demands. If we had guarantees that Kansas will have ample supply of ethanol, at affordable prices, SB 327 would not be necessary. Today, petroleum marketers are becoming more compatible with ethanol, and we attribute that to the price that was showing up at the pump when we took the pump labels off in 2005. As an example, in July of 2005, the spread between ethanol and gasoline was so great that marketers, who had never sold ethanol, were forced to do so because they were not competitive price-wise at the pump compared to regular gasoline.

Mandates are seldom looked upon favorably by any industry, even under the best of circumstances. PMCA would rather encourage the use of renewable fuels through increased consumer awareness, incentives (tax credit) for the retailers to sell ethanol, producer incentives and the combined result of all these factors: the free market place operating as it should and does.

Petroleum Marketers and Convenience Store Association of Kansas
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Here we are in February 2007, and that example has changed dramatically. For the past 12 months the price of ethanol has consistently been higher than regular gasoline. The demand for ethanol continues to grow, and as such, prices will remain high until supply catches up. With the amount of new ethanol plants being built in Kansas today, we assume that supply will increase, taking some of the pressure off the price of ethanol. Any offset at the pump will be well received by the consumer. The problem that exists today is how to get the "price-break" back to the consumer at the pump. SB 327 is a step in the right direction.

Thank You

Kansas Grain Sorghum Producers Association

Kansas Corn Growers ASSOCIATION

TO: House Energy and Utilities Committee
FROM: Jere White, Executive Director
DATE: March 22, 2007
SUBJECT: Senate Bill 327

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association wish to stand in support for Senate Bill 327, which would create a renewable fuels standard (RFS) in Kansas.

This bill uses incentives to help Kansas achieve a renewable fuel standard. Additionally, this RFS is not only for ethanol and biodiesel, but also for other renewable fuels that might come downstream in the future, such as bio-butanol. Ethanol is the largest player in Kansas today and as you know, the ethanol industry in Kansas continues to experience very strong growth. Just last month, a 100 million gallon per year ethanol facility was announced here in Topeka. Biodiesel production in the state is also growing and should enjoy a very promising future.

While Kansas is becoming an increasingly influential player in the biofuels production industry, the use of biofuel in our state lags behind other states that have adopted various policies aimed at increasing that use. It makes sense that our state would encourage the use of these homegrown fuels. It is also important to remember that under the provisions of this bill, if a retailer chooses not to offer renewable fuels, they simply do not benefit from the incentives offered. There is no penalty nor mandate.

Our associations believe the best way to achieve the level of use and availability of biofuels in Kansas envisioned in this bill is through the offering of incentives. This bill is well thought out, phasing in a renewable fuels standard that begins at 9 percent in 2009 for ethanol and 2 percent for biodiesel, both achievable goals even today. By 2025, it calls for 25% renewable fuels in order to qualify for the incentive. Our associations have endorsed the 25 x 25 initiative that calls for our nation to get 25 percent of its energy from renewable resources by the year 2025. By passing this legislation, Kansas will be moving assertively toward that goal.

By providing incentives to retailers, this bill will make biofuels more available consumers throughout the state, and those incentives should also result in lower fuel prices at the pump for biofuels. A renewable fuels standard will also lessen our dependence on foreign oil and provide for cleaner burning fuels for our vehicles, and is a perfect match for other public policy initiatives with similar goals.

This bill benefits Kansas. It will create a stronger in-state market for biofuels made in Kansas plants. The eight ethanol plants we have today provide strong markets for our Kansas grains as well as jobs and economic growth for Kansas communities. As the biofuel industries grow in Kansas, so will the economies of our rural communities. The RFS provides a good climate for that growth in Kansas. Thank you.

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KANSAS FARM BUREAU
The Voice of Agriculture

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PUBLIC POLICY STATEMENT

House Committee on Energy and Utilities

RE: SB 327 – an act relating to renewable fuel and energy; providing for certain income tax credits.

March 22, 2007
Topeka, Kansas

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 appear today and offer testimony in support of SB 327. 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 these alternative fuels.

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, soybeans and other crops, which is good for Kansas agriculture, and the rural Kansas economy.

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Therefore, producing fuel from Kansas corn and soybeans is better long-term than continuing to rely on imported foreign oil. That's why putting new ethanol incentives in place are important to Kansas Farm Bureau. These new incentives would help us build more local demand for Kansas crops, while at the same time creating increased availability for ethanol purchasers. It is a win-win for Kansas farmers and consumers. For these reasons, KFB supports the proposal contained in SB 327, 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 bio-fuels and Kansas agricultural producers. We stand ready to assist as you consider this important measure. Thank you.

Kansas Cooperative Council

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House Committee on Energy & Utilities

March 22, 2007

Topeka, Kansas

SB 327 - Income Tax Credits for Renewable Fuels.

Chairman Holmes and members of the House Energy & Utilities Committee, thank you for the opportunity to share our support for SB 327 enacting certain income tax credits for sale of renewable fuels. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half our members are involved in agriculture co-ops. As farmer cooperatives, they are owned and controlled by their ag producer members. These member-owners are actively engaged in growing the crops that proved feed stocks for processing renewable motor vehicle fuels.

Our policy position on renewable energy simply states:

The KCC supports initiatives which promote the use of renewable energy sources.

While this statement is short and to the point, it was intentionally broad to cover a wide array of initiatives designed to promote the development and increased use of various types of renewable energy sources. The bill before you today, SB 327, is one of many means that could have been employed to incent increasing the availability and use of ethanol-blended fuels and biodiesel.

We are certain many of the other conferees will speak to the intricacies of the proposed legislation. For brevities sake, we will simply state our support for incentive-based initiatives, such as those contained in SB 327, and ask for your favorable action on the measure. Thank you.

SB 20 - One Call

Commencing July 1, 2007, utilities shall develop appropriate maps of their system's new water and wastewater lines and appurtenances. Information related to water and wastewater lines and appurtenances installed prior to July 1, 2007, shall be added to such system maps as information becomes available.

Individual utilities shall establish target dates by which they expect to have all water and wastewater lines and appurtenances installed prior to July 1, 2007, locatable and provide such target dates and annual progress reports by February 1 of each year to the League of Kansas Municipalities or the Kansas Rural Water Association.

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