

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 12, 2009, in Room 446-N of the Capitol.

All members were present.

Committee staff present:

Kristen Kellems, Revisor of Statutes Office
Jason Thompson, Revisor of Statutes Office
Corey Carnahan, Kansas Legislative Research Department
Alissa Vogel, Committee Assistant

Conferees appearing before the Committee:

Mary Jane Stankiewicz, COO and the Senior Vice President, Kansas Association of Ethanol Processors
Constantine Cotsoradis, Deputy Secretary, Department of Agriculture
Brad Harrelson, State Policy Director, Kansas Farm Bureau

Others attending:

See attached list.

The meeting began with the approval of minutes. Senator Teichman moved to approve the minutes from February 12, 2009. Senator Francisco seconded the motion, and the motion carried.

Senator McGinn announced the hearing on **SCR 1610 - Urging the Environmental Protection Agency to authorize use of higher blends of ethanol.**

Kristen Kellems, Revisor of Statutes Office, provided a brief overview of **SCR 1610.**

She stood for questions.

Senator McGinn introduced Mary Jane Stankiewicz, COO and Senior Vice President of the Kansas Association of Ethanol Processors (KAEP), who spoke as a proponent to **SCR 1610.** (Attachment 1) She stated that in the next few years, the demand and need for higher ethanol blends in excess of E10 or mid-level blends will increase. Thus, KAEP wants to encourage the Environmental Protection Agency (EPA) to be open to new research and data supporting the use of higher blends of ethanol. She informed the Committee of Ford Motor Corporation and the Underwriters Laboratory's support for E15 fuel. KAEP supports **SCR 1610** and the use of E15 for the following reasons: E15 would not harm catalytic converters in older cars or jeopardize the car warranties, higher blends can be run through systems in a safe manner, and by increasing the amount of ethanol in our gas, we reduce the dependence on foreign oil, increase jobs, and improve the environment.

Constantine Cotsoradis, Deputy Secretary of the Kansas Department of Agriculture (KDA), spoke in favor of **SCR 1610.** (Attachment 2) Mr. Cotsoradis stressed the importance of the ethanol industry in the Kansas' economy and its importance nationwide as the only viable alternative transportation fuel to gasoline today. He stated that the current 10 percent ethanol-blend level that was set by the federal government in 1979 needs to be reevaluated. The KDA supports the use of higher blends of ethanol, because it will boost the struggling ethanol industry, provide more green jobs, and help the country meet the Renewable Fuels Standard.

Brad Harrelson, State Policy Director of the Kansas Farm Bureau (KFB), provided written testimony in support of **SCR 1610.** (Attachment 3)

Senator Teichman moved to pass SCR 1610 out of Committee. Senator Abrams seconded the motion, and the motion carried.

Senator McGinn announced the hearing on **HB 2050- Adjusting fees for water rights, applications for term permits for appropriating water.**

Kristen Kellems, Revisor of Statutes Office, provided an overview of **HB 2050.**

CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 8:30 a.m. on March 12, 2009, in Room 446-N of the Capitol.

She stood for questions.

Constantine Cotsoradis, Deputy Secretary of the Kansas Department of Agriculture (KDA), spoke in favor of **HB 2050**. (Attachment 4) He provided an overview of the proposed changes to the water appropriation fees including: extending the sunset dates for all water appropriation fees, defining term permits and establishing a fee schedule identical to the current structure, modifications to the application fee through the elimination of the “discount” for certain change applications, a reduced fee for field inspections of watershed dams and industrial groundwater pits, and allowing the refund of an application fee to be modified from the current 150 days to 180 days.

He stood for questions.

Brad Harrelson, State Policy Director of the KFB, provided neutral testimony on **HB 2050**. (Attachment 5)

Senator Teichman moved to pass **HB 2050** out of Committee. Senator Abrams seconded the motion. Discussion ensued.

Senator Teichman and Senator Abrams withdrew their motion to pass **HB 2050** out of Committee.

The hearing was closed on **HB 2050**.

Senator Taddikan presented an amendment to the Committee that would amend **SB 214- requiring the Secretary of Health and Environment to convene a task force to study disposal of florescent lamps and medical sharps**. The proposed amendment would amend K.S.A. 2008 Supp. 65-3424g and repeal the existing section. The new language would allow schools to receive grants to purchase recycled products. The bill also would revoke the sunset clause on the grant program

Senator Taddiken moved to remove the language contained in **SB 214** and replace it with the language included in the amendment. Senator McGinn seconded the motion. After discussion, the motion carried.

Senator Teichman moved to pass **SB 214** out of Committee. Senator Francisco seconded the motion, and the motion carried.

The next meeting is scheduled for March 19, 2009.

The meeting was adjourned at 9:04 a.m.



Ethanol - *Made in Kansas*

Association Of Ethanol Processors

Good morning Chair McGinn and members of the Senate Natural Resources Committee. I am Mary Jane Stankiewicz and I am the COO and Senior Vice President of the Kansas Association of Ethanol Processors (KAEP). KAEP is the organization representing the ethanol plants and associated members in Kansas and our organization appears in support of SCR 1610 today.

SCR 1610 encourages the EPA to consider looking at allowing blending of ethanol into gasoline beyond the current allowable rate of 10%. We believe that in the next few years it is conceivable that the ethanol industry and the nation could be ready for the consumption of ethanol blends in excess of E10, commonly referred to as mid-level blends, and thus we want to make sure the EPA considers not just where we are currently but continues to be open to new research and data that will be produced in the near future that appears to support higher blends.

Currently the U.S. ethanol industry has capacity to produce 12.5 billion gallons of ethanol during this calendar year. Kansas produces 450 million gallons of ethanol each year. Approximately 70% of the gasoline sold in the U.S. today contains ethanol. Most of this gasoline is consumed by vehicles using 10% ethanol and 90% gasoline (i.e. E10) – this is currently the standard blend warranted in legacy vehicles of the U.S. automotive fleet. However at this point we are approaching the maximum amount of ethanol that can be consumed in this manner, i.e. we have hit the regulatory cap or the blending wall. We think it is time to take the next step in increasing this level of use of ethanol. As of last Friday, Growth Energy, an ethanol industry group in Washington, DC, along with 51 ethanol plants and several cellulosic ethanol companies petitioned EPA to allow E15 in gasoline. This waiver was also supported by the Ford Motor Corporation, which is significant because as one of the automobile manufacturers, Ford stated that use of E15 would not harm catalytic converters in older cars and would not jeopardize the car warranties. We believe the science and data is there to support the E15 waiver and think that this resolution would send a supportive message to EPA that not only should they support the waiver but they need to consider even higher blend of ethanol in the future.

As we consider the requirements and schedule of the federal Renewable Fuels Standard, culminating with the use of 36 billion gallons of biofuel in 2022, the standard

*Senate Natural Resources
March 12, 2009*

ethanol blend must grow from its current level to allow for consumption of this biofuel production. This quandary is even more apparent when it is recognized that E*% use in flex fuel vehicles remains less than 1% of the fuel ethanol consumption. The domestic economic stimulus and energy security benefits of EPA eliminating this regulatory cap are also quite significant. Each additional billion gallons of ethanol production creates nearly 20,000 jobs in the economy.

Ethanol plays an important part in the Kansas economy. There is an estimated 400 people that are currently directly employed by the ethanol plants in Kansas. These plants pay approximately \$3.2 million a year in taxes and generate a local payroll per plant of approximately \$1,700,000. Therefore we are asking for your support of SCR 1610 encouraging the federal government to move quickly to approve mid-level blends because by increasing the amount of ethanol in our gas we reduce the dependence on foreign oil, increase jobs and improve the environment.

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

Testimony on SCR 1610
to
the Senate Natural Resources Committee

by Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture

March 6, 2009

Good morning, Chairwoman McGinn and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture. I am here in support of Senate Concurrent Resolution 1610, which urges the Environmental Protection Agency to authorize use of higher blends of ethanol.

Kansas currently has 12 ethanol plants that produce 519 million gallons per year. The ethanol industry has had a big impact on rural Kansas communities. Nationwide in 2008, the ethanol industry created more than 494,000 jobs, added \$65.6 billion to the Gross Domestic Product and \$20.7 billion in tax revenues.

It is critical to allow higher blends of ethanol into the nation's gasoline supply as requested in SCR 1610. Higher blends of ethanol will reduce our consumption on foreign oil, assist the financially stressed ethanol plants and allow for the development of next generation technologies.

The U.S. Department of Energy estimates that 13 million tons of greenhouse gases were avoided in 2007 due to biofuel production and use. Corn ethanol from the United States reduces greenhouse gas emission by 19 percent when the full life cycle of the fuel is measured. Ethanol represents more than 7 percent of the nation's gasoline supply, and it is the only viable alternative transportation fuel to gasoline available today. It is helping us reduce our dependence on foreign oil, and it allows us to keep more of our American dollars at home.

In December 2007, the Energy Security and Independence Act, which included the Renewable Fuels Standard, was signed into law. The act mandated 36 billion gallons of ethanol be blended into the domestic fuel supply by 2022. However, the EPA's current ethanol base blend of 10 percent will not allow the country to achieve the Renewable Fuels Standard. The current 10 percent ethanol-blend level that was set by the federal government in 1979 needs to be reevaluated.

We strongly support this resolution because higher ethanol blends will boost the struggling ethanol industry, provide more green jobs and help the country meet the Renewable Fuels Standard.

I will stand for questions at the appropriate time.

109 SW 9th St., Topeka, KS 66612-1280 • (785) 296-3556 • Fax: (785) 296-8389
e-mail: ksag@kda.state.ks.us

Senate Natural Resources
March 12, 2009
Attachment #2



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON NATURAL RESOURCES

RE: SCR No. 1610 – a resolution urging EPA to authorize the use of higher blends of ethanol in non-flex fuel vehicles.

**March 6, 2009
Topeka, Kansas**

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

Chairman McGinn, and members of the Senate Committee on Natural Resources, thank you for the opportunity to appear today in support of SCR 1610. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

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

Ethanol is unquestionably, one of the most notable success stories in agriculture today. Ethanol demand continues to surge, and the industry is setting unprecedented production records. Consumption of this high-octane, low-emission fuel not only reduces our dependence on foreign oil; it enhances market demand for corn and other grains, which is good for Kansas producers, and the rural Kansas economy.

While these statistics are most encouraging, we believe there is more that can be done to promote ethanol consumption. Currently, the Environmental Protection Agency has

Senate Natural Resources
March 12, 2009
Attachment #3

not approved the use of ethanol blends in excess of 10% in non-flex fuel vehicles. Favorable research supports use of higher ethanol blends, such as E20, in non-flex fuel vehicles which would increase ethanol consumption and provide for cleaner auto emissions.

In summary, thank you for your consideration, your support of ethanol and Kansas agricultural producers. Kansas Farm Bureau respectfully urges your recommendation to pass favorably SCR 1610. Thank you.

**Testimony on Substitute for HB 2050 to
Senate Natural Resources Committee**

**by Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture**

March 6, 2009

Good morning, Chairman McGinn and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here in support of House Substitute for House Bill 2050.

This bill is the final product of the House Agriculture and Natural Resources Subcommittee on HB 2050. In its current form, it defines term permits, lowers some field inspection fees, removes the discount for multiple change applications and extends the sunset for water appropriation fees. It is necessary to extend the sunset to ensure that the water appropriation program is able to fund the staff needed to provide current services.

Following is an overview of the changes proposed by this bill:

- **Extend sunset dates for all water appropriation fees.** The current language would extend the proposed sunset date from June 30, 2010, to June 30, 2015. If the fees are allowed to sunset, the revenue generated for the water appropriation fee fund will be reduced by \$215,000, or 49 percent. This reduction would result in the loss of four environmental scientist positions.

Without the funding this bill provides, current services would be cut or severely reduced. That would negatively affect property values, food production, commerce and economic development. Also, without water use data, there would be an inadequate amount of information for resource management, and individuals would be forced to use civil courts for water right enforcement

- **Term permit language.** This bill defines term permits and establishes a fee schedule identical to the current structure. Currently, term permit applications are defined in the same category as new applications. However, they are different from new applications because they are issued only for a finite period of time, and they do not require a field inspection fee. The new language captures how the department currently handles these permits.

- **Change application fee.** This bill eliminates the “discount” for change applications that include multiple changes in place of use, point of diversion, or use made of water. The fee for an application with multiple changes would be equal to what the fees would be if the changes were requested individually. No increase is proposed at this time for change applications. This would increase program revenue by about \$10,800 annually.
- **Field inspection fee.** This bill provides a reduced fee for field inspections of watershed dams and industrial groundwater pits. The reduced fee of \$200 would be for about 29 field inspections annually. Although field inspection fees are subsidized by state general fund dollars, there is a small cost incurred by the program to conduct this work. This would decrease program revenue by about \$5,800 annually.
- **Application fee refund.** This allows for the refund of an application fee to be modified from the current 150 days to 180 days. We need more leeway in case state general funding for this program is dramatically reduced. About 80 percent of the funding for the water appropriation program is from the state general fund.

The cumulative fiscal impact of this bill is a \$5,000 increase in annual revenue for the water appropriation fee fund, representing a 1 percent increase in total program fees.

I will answer questions at the appropriate time.

PUBLIC POLICY STATEMENT

Senate Natural Resources Committee

RE: HB 2050 – an act concerning water; relating to certain fees and disbursement.

March 12, 2009

Submitted by:

Brad Harrelson

KFB State Policy Director

Chairperson McGinn and members of the Senate Natural Resources Committee, thank you for the opportunity to appear before you today. I am Brad Harrelson, State Policy Director 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.

Since 2002, our members have been under the impression that temporary fee increases in the Kansas Water Appropriation Act were needed to allow the agency to make necessary adjustments to facilitate operation. This fee increase is to sunset June 30, 2010 thus providing eight years to resolve agency efficiencies. As originally proposed, HB 2050 would have required our members to not only extend these fee increases but to make them permanent during these bleak economic conditions.

Our member developed policy clearly states "**The funding of the Division of Water Resources should be primarily through a general fund obligation rather than increasing permit fees**". The beneficial use of water predominately results in a universal economic benefit for all Kansans. That is why our members are willing to pay reasonable filing fees and have been willing to shoulder a "temporarily" greater load until the sunset that they were promised.

Creating a fee to enroll in the Water Rights Conservation Program, as originally proposed in HB 2050, could have caused enhanced water use in already over appropriated areas of the state. Historically, eligible water right holders wishing to enroll in the Water Rights Conservation Program voluntarily idled their water right

Senate Natural Resources
March 12, 2009
Attachment #5

for up to 10 years without concern that their right could be deemed abandoned under KSA 82a-718. There has never been a fee charged to a water right holder for taking this voluntary water conservation action up to this point.

Creating new fees and proposals to make temporary fee increases permanent could not come at a worse time. Everyone is aware of the challenge of these trying economic times. But no one is more aware of just how expensive it is to do business than those in agriculture. Input and operating expenses have skyrocketed and been so volatile that making good business decisions has become nearly impossible.

As originally drafted, KFB opposed HB 2050. However, House amendments addressed many of our concerns. The bill before you today no longer contains most of the fee increases originally proposed and simply extends the promise made to industry that fees would be reduced to 2002 levels in 2015 instead of 2010. It also no longer contains any new fees to enroll in the Water Rights Conservation Program. In these uncertain times we feel this is a reasonable approach.

If the committee chooses to work HB 2050 we would respectfully ask that you leave intact the sunset provision, leaving fees at current levels through FY 2015. Thank you, once again, for the opportunity to appear before you and share the policy of our members. KFB stands ready to assist you as you consider this important measure. Thank you.