Approved: 02/10/10
Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on February 2, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:
- Kristen Kellems, Office of the Revisor of Statutes
- Corey Carnahan, Kansas Legislative Research Department
- Raney Gilliland, Kansas Legislative Research Department
- Judy Seitz, Committee Assistant

Conferees appearing before the Committee:
- Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas)
- Mark Augustine, Owner, Triplett, Inc.dba Travel Stores in Kansas
- Scott Zaremba, Owner, Zarco 66 Inc./Zarco 66 Earth Friendly Fuels
- Steve McNinch, CEO, Western Plains Energy, LLC
- Jere White, Executive Director, Kansas Corn Growers Association and Kansas Grain Sorghum Producers
- Tom Byers, Senior Government Affairs Representative, Magellan Midstream Partners
- Ken Peterson, Director, Kansas Petroleum Council

Others attending:
See attached list.

Senator Francisco introduced her pages: Alex Price and Austin Naramore from rural Douglas County.

Hearing on SB 425 - Blending motor-vehicle fuel at the terminal.

Kristen Kellems, Office of the Revisor of Statutes, reviewed **SB 425.**

Ms. Kellems answered a question as to whether or not this issue is being litigated in other states.

Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), appeared in support of **SB 425**. (Attachment 1).He said this bill would require clear gasoline at all terminals in Kansas. Mr. Palace said that today fuel distributors can go to a terminal and purchase fuel that may or may not be blended with ethanol. He said the PMCA of Kansas wants that practice to continue and into the future. He testified that if **SB 425** is not enacted this option may no longer be available. Mr. Palace said that the Environmental Protection Agency (EPA) recently established the Renewable Identification Number (RIN), a tracking number for each gallon of ethanol that is sold. The RIN's have a market value and can be sold on the open market. The EPA established the RIN knowing the Renewable Fuel Standard (RFS) could not be met. The RIN's can be purchased by oil companies to help them meet the RFS.

Mark Augustine, Owner, Triplett, Inc., dba Travel Stores in Kansas, testified in favor of **SB 425.** (Attachment 2) He said that this bill would ensure the market remains fluid so companies can use competitive forces to secure the lowest price for every gallon of gasoline and ethanol. He also said that requiring pure gasoline in all grades to be sold in terminals will allow the market to remain fluid to generate the lowest cost product to the consumers of Kansas.

Scott Zaremba, Owner, Zarco 66 Inc./Zarco 66 Earth Friendly Fuels, presented testimony in favor of **SB 425.** (Attachment 3) He said his stations blend fuels on site using blender pumps blending straight gasoline and ethanol as well as diesel and bio diesel products. He also stated that if this bill is not enacted out of state oil companies will have total control of motor fuel blending.

Steve McNinch, CEO, Western Plains Energy, LLC, appeared in support of **SB 425** because this bill supports the basic concept of allowing free trade in the market place. (Attachment 4) He is an ethanol producer and is very sympathetic with both sides of this issue. He is concerned with how the tax credit and RIN's are handled.

Mr. McNinch also said this legislation would fix a loophole in the current law in which marketers are not required to do anything with the RIN's at the end of the year. This bill would require the marketers to put the RIN's back into the market place.

Growth Energy Board of Directors provided written testimony in support of **SB 425.** (Attachment 5)

Jere White, Executive Director, Kansas Corn Growers Association and Kansas Grain Sorghum Producers, submitted testimony in support of **SB 425.** (Attachment 6) His association believes this is a competitive issue. Mr. White also said this bill would preserve a customer's access to non-blended fuel.

The conferees who spoke as proponents of **SB 425** stood for questions.

Tom Byers, Senior Government Affairs Representative, Magellan Midstream Partners, spoke in opposition of **SB 425.** (Attachment 7) He noted that Section 3 (a) of **SB 425** has a provision designed to promote "splash blending." This type of blending ethanol at off-site bulk plants leaves the quality control of the blending in the hands of the delivery truck drivers. Mr. Byers also said that terminal blending provides superior quality, computer controlled, ethanol-blended gasoline and ensures that it meets all required specifications. Another type of blending is sequential blending in which the ethanol is injected into the truck storage compartment followed by the gasoline.

Ken Peterson, Director, Kansas Petroleum Council, testified in opposition of **SB 425.** (Attachment 8) This is a mandate on refineries to produce gasoline that may - or may not be used by wholesalers. He said this bill does not reduce dependence on foreign oil because it does nothing to increase the production or consumption of renewable fuels. Mr. Peterson also said this bill creates serious obstacles to the overall national goal of using more renewable fuels and achieving that end in the most efficient and effective manner.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA), answered questions from the Committee.

The conferees in opposition to **SB 425** took questions.

The hearing on **SB 425** will be held open and be continued at a later date.

The next meeting is scheduled for February 3, 2010.

The meeting was adjourned at 9:30 a.m.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 2, 2010

NAME	REPRESENTING
Dore White	KCGA - KGSPA
DeEtta Bohling	KCGA / KGSPA
Mary Jane Stankiewicz	KHEP
Mark Augustine	Triplett, Inc
George Wingert	Ruffin Corp.
Rob Johnson	[illegible] Consulting
Leslie Kaufman	Ks Coop Council
Kenlon Johannes	Kansas Soybean
Scott Anderson	East Kansas Agri-Energy
Brad Harrelson	KFB

PMCA
of Kansas

February 2, 2010

Memorandum

To: Senate Agriculture Committee
From: Thomas M. Palace
Re: Comments on SB 425

Mr. Chairman and members of Senate Agriculture 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.

PMCA supports the expansion of renewable fuels -- both ethanol and biodiesel fuel. We believe Kansas has made great strides in the past few years promoting the use of ethanol by way of tax incentives that have resulted in new 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.

SB 425 will require each manufacturer, importer or distributor which offers all grades of fuel for sale at all terminals in Kansas, to also offer unblended gasoline and diesel fuel that are suitable for blending with ethanol and biofuels.

Currently, motor fuel is purchased by independent motor fuel distributors throughout the State of Kansas at facilities known as terminals or racks. The fuel sold may or may not be blended with ethanol. The purchaser has the option of buying clear or blended fuel at the terminal. SB 425 will allow this process to continue today and into the future.

I have attached a document that clearly shows this option may not be available in the future if SB 425 is not enacted (please refer to back of testimony- Attachment A). This document was forwarded to me by one of my members, and it causes concern for distributors that blend their own fuel.

Blending below the terminal has been an acceptable practice in Kansas for a long time. The Kansas Department of Agriculture's Division of Weights and Measures oversees fuel quality in Kansas, and as of this date we are unaware of problems existing with such blending. The accuracy of post-terminal blending is important not only to this State of Kansas enforcement agency, but also to our customers as well. They both hold the fuel marketer accountable for the product that he or she sells.

Senate Agriculture Committee
February 2, 2010
Attachment 1

Petroleum Marketers and Convenience Store Association of Kansas
115 SE 7th • Topeka, KS 66603
PO Box 678 • Topeka, KS 66601-0678
785-233-9655 • Fax: 785-354-4374

We should also note that today most oil companies, but not all, allow distributors to blend ethanol with their gasoline.

For a distributor who blends fuels, there are certain tax incentives available. There is currently a four and one-half cent per gallon federal tax credit on each gallon of ethanol that is blended with gasoline. In 2008 over $4 billion in credits were distributed. Additionally, the Environment Protection Agency (EPA) recently established a Renewable Identification Number (RIN), a tracking number for each gallon of ethanol that is sold. The RINs have a market value, and can be sold on the open market. The EPA established the RIN knowing the Renewable Fuel Standard (RFS) could not be met. The RINs can be purchased by oil companies to help them attain the Renewable Fuel Standard. We have been informed that the value of RINs in 2009 ranged from 3.5 – 17 cents per gallon, and bio RINs ranged from 6.75 – 26 cents per gallon (*from RIN Alliance of Iowa*).

The Renewable Fuels Standard (RFS) does not require every gallon of fuel to be pre-blended by the oil companies. In fact, as stated above, the EPA established the RIN system to help oil companies meet the RFS. SB 425 requires blenders to participate in the RIN system to help the oil companies, who are obligated parties, meet their blending requirements. Bottom line, the oil companies don't want to purchase the RINs. Instead, they have the ability to circumvent this action by simply requiring that all fuel be sold pre-blended.

Mr. Chairman, PMCA does not take lightly a request for legislative action to correct an industry problem. As evidenced by Attachment A, fuel distributors have NO recourse, other than legislation, to protect an informal mandate by the oil companies that want control of the gas and ethanol distribution process. Fuel distributors sign long-term branding agreements that prohibit them from purchasing fuel from other oil companies. The fuel price is not negotiable and as such, if the oil companies are not forced to sell clear products, the prices of blended fuel (ethanol) will be non negotiable as well.

In addition, our Kansas independent fuel distributors are more likely to buy their ethanol from Kansas ethanol plants that use Kansas produced agriculture products (corn and milo).

Mr. Chairman and Committee Members, we urge you to support SB 425.

Thank you.

ATTACHMENT A

BLENDING LEGISLATION

VALERO
December 14, 2009

TO: All Valero Branded and Unbranded Customers
RE: Ethanol blended gasoline

As of January 4, 2010 the following terminals will STOP offering clear gasolines and will ONLY offer 10% ethanol gasoline blends (they currently offer both):
VMSC Turpin, NuStar Amarillo, NuStar Albuquerque, NuStar Colorado Springs, and NuStar Denver.

If you have any questions, or to receive an example of a checklist of procedures and instructions for preparing your stations for ethanol blended gasoline, please contact your Territory Manager.

If Unbranded, contact Mike Di Grappa at 303-888-7828 or Cheri McDougle at 210-
345-5895.

If Branded, contact Craig Cashon at 817-491-0932 or Stan Beasley at 405-396- 2313.

It is your responsibility to know and comply with the legal requirements associated with the introduction of ethanol blended fuel. It is your responsibility to check with regulators and/or counsel regarding any labels which must be affixed to dispensers before ethanol blended gasoline is sold.

Valero Marketing and Supply

24/7 STORE®

Memo To: Senate Agriculture Committee

From: Mark Augustine, Owner of Triplett, Inc. doing business as 24-7 Travel Stores in Kansas

Date: January 27, 2010

Re: Comment on SB 425

Mr. Chairman Taddiken and members of Senate Agriculture Committee:

My name is Mark Augustine, I am the Owner of Triplett, Inc. doing business as 24-7 Travel Stores in Kansas, a second generation distributorship started in 1963 based in Salina, Kansas. We own and operate nine travel stores along the interstate system in Kansas along with distributing to commercial customers through our fleet of transports, employing 110 Kansans.

Throughout the history of my company we have been associated with a major branded oil company like Amoco who arranged and made available their products at terminals located in the State of Kansas. In 2007 we received notification from Amoco that they would no longer distribute product in Kansas and we had nine months to determine a new supplier.

At first we thought the world had just ended but in reality it had just began. We had doors open that we never realized existed as we began to work through creating our own brand and the logistics of securing product in what the petroleum industry refers to as the unbranded market. We found twelve different gasoline suppliers and four ethanol suppliers, allowing us to purchase product from the lowest cost provider through the day.

Senate Bill 425 ensures the market remains fluid so companies like Triplett, Inc. can use competitive forces to secure the lowest price for every gallon of gasoline and ethanol. The oil companies want to reduce availability of pure gasoline at the racks and go strictly to an ethanol blended product slate. Through reducing the product slate to an ethanol blended stock at the terminals the oil companies gain control of ethanol reducing our ability to formulate the most competitive product offering for the consumer.

Over the past ten years companies have invested in a lot of infrastructure to make ethanol readily available throughout Kansas. This availability along with the Federal Gasohol Competition Act of 1980 enables a licensed blender to blend ethanol with the oil companies' base product as long as they do not have E10 available at the terminal. The combination of these facts has effectively reduced the oil companies' throughput by ten percent.

The Energy Policy of 2005, which became effective in September 2007 created an environmentally "currency" called a renewable identification 38-digit number (RINS) for a specified number of gallon(s) of renewable energy to help decrease consumption of oil in the United States. The renewable fuel standard raises the amount of renewable fuels to be used in the United Sates from 8 billion barrels in 2008 to 36 billion by 2022. Refiners need RINs to meet these standards and therefore there has been a market created for RINS.

As a license distributor and blender in the State of Kansas we can account for our RINS and take them to market throughout the year. This has lowered our cost on average for every gallon of gasoline by a quarter of a cent ($0.0025). Creating opportunity for additional hours of work to account for the RINs as well as improving our profitability. Again, if the oil companies are successful in reducing the product offering at the terminals to an ethanol blended product slate the availability of RINs will be eliminated and the potential profit moved to their ledger.

Requiring pure gasoline in all grades, regular, midgrade and premium, to be sold at Kansas terminals will allow the market to remain fluid to generate the lowest cost product to the consumers of Kansas. The economics of pre-blended gasohol (E10) and all grades of gasoline splash blended with 10% ethanol change every day. Competition is key to keep the price of both ethanol and gasoline competitive. In the month of October 2009, we improved our buying price through splash blending by six tenths of a cent ($0.006); accounting for the RINS reduced cost an additional quarter of a cent ($0.0025) for a total savings of $0.0085 per gallon. The reverse was true in December 2009; we improved our buying price on average by seven tenths of a cent ($0.007) per gallon through buying the pre-blended E10 product.

In addition my company has been experimenting with our gasoline product offering at our retail outlets. We have found that the consumer views straight 87 octane regular gasoline a premium fuel and will actually pay a higher price over gasohol (E10). In fact, our customers are choosing 87 octane regular gasoline 48% of the time. It is our opinion, that consumers view straight gasoline as a premium fuel today versus E10 due to the fact they are willing to pay more per gallon.

In closing, by leveraging competition we are able to bring the lowest price of gasoline to market with or without ethanol providing a product offering that is attractive and competitive to all Kansans. Through our process of securing product we effectively are lowering the cost of gasoline and gasohol to the consumers of Kansas. Kansas retailers sell approximately 1.2 billion gallons of gasoline annually and at a cost reduction of three quarter of a cent ($0.0075) a gallon; we can continue to save Kansas consumers an estimated 9 million dollars annually through SB 425. Big Oil wants to put this money in their coffers and take it out of the State of Kansas.

I ask for your support of SB 425.

Respectfully,

Mark Augustine

Mark Augustine

President of Triplett, Inc.

Zarco 66 Inc.
1548 E. 23rd Street, Suite C
Lawrence, KS 66046
785-843-6086

February 2, 2010

Memorandum

To:	Senate Agriculture Committee
From:	Scott Zaremba
Re:	Comments on SB 425

Mr. Chairman and members of Senate Agriculture Committee:

My name is Scott Zaremba. I am the owner of Zarco 66 Inc./ Zarco 66 Earth Friendly Fuels, Lawrence, Kansas. We own and operate 8 retail fuel locations in 4 counties in Kansas. We supply the motoring public with transportation energies. We are a second generation company established by my father in 1968.

We have watched for the past 40 years as huge fluctuations in the cost of fossil fuels have devastated our economy. First with the oil embargo in 1973, the gulf war in 1991, and finally the $150 dollar barrel crude oil to 2008. All of these fluctuations have occurred in part because we had no other transportation energy alternatives.

Beginning in June of 2007, I embarked on a path with our company to bring transportation energy's produced in Kansas by Kansans for Kansans. We built the first retail fuel facility in Kansas that blends the fuels onsite "the first Green Fueling facility" in the United States. This includes Ethanol and Biodiesels fuels. We blend our fuels on site using blender pumps blending straight gasoline and ethanol as well as diesel and bio diesel products. We do these using state of the art fuel dispensers that were at the very outset custom built.

This was not done in some hap hazard approach. We spent months working closely with the Kansas Department of Health and Environment, the Environment Protection Agency EPA), and the Kansas Department of Agriculture Division of Weights and Measures designing our tanks and fuel pumps to make sure they were compliant with both local, state and federal regulations. We opened our facility after the regulatory agencies were fully satisfied with our blending process. Our facility has been tested and retested, and we

Senate Agriculture Committee
February 2, 2010
Attachment 3-1

were approved in February 2008 to open for business. I have spent tens of thousands of dollars to bring this method of blending fuels to the consumers of Kansas. I am also proud to report that Zarco 66 Earth Friendly Fuels have been recognized by EPA for creating the first "Green Gas Station" and have received the Blue Skyways' collaborative award for our efforts in providing leadership in transportation energy and conservation.

If SB 425 is not enacted, out of state oil companies will have total control of motor fuel blending. This would create a monopoly similar to that of the oil embargo of 1973, the gulf war, and stock market collapse of 2008. Please help us, help the people of Kansas, by enabling Kansans to keep control of Kansas product in Kansas.

Mr. Chairman, I ask for your of support SB 425.

Thank you

Scott Zaremba

Zarco 66 Inc./Zarco 66 Earth Friendly fuels

Western Plains Energy, LLC

Senate Agriculture

February 2, 2010

SB 425

Good morning Chairman Taddiken and members of the Senate Agriculture Committee. My name is Steve McNinch and I am the CEO of Western Plains Energy LLC, which is a 48 million gallon ethanol plant near Oakley, Kansas. I am the chair or the Kansas Association of Ethanol Processors and I also serve on the board of the Growth Energy.

I appear before you in support of SB 425 because this bill supports the basic concept of allowing free trade in the market place. You have heard from the previous conferees about the importance of free trade and how the marketplace works. I would like to spend a little time on the impact to the current retail stations if this legislation is passed. The KAEP worked hard with the Kansas Department of Agriculture to allow retail gas stations to install blender pumps that allow the consumer to choose whether they would like to buy E10, E20, E30 or E85 blends of gasoline for their vehicle. Market research has shown that consumers are supportive of ethanol, but some would prefer to buy something in between E10 an E85. Because of this demand, the ethanol industry and the Kansas Department of Agriculture worked hard to provide the opportunity for retailers and consumers to have these options. Without the ability to buy clear gasoline and blend various levels of ethanol into the gasoline these stations will no longer be able to continue in business.

One of the shining examples of a business that wants to market various levels of ethanol in their gas is the Zarco station in Lawrence. This station has undergone significant remodeling and installation of high tech equipment to allow the consumer to choose the gasoline that they want to purchase and this bill would protect this practice.

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Another component that I would like to discuss with you is the concept of Renewable Identification Numbers (RINs). Under the Renewable Fuel Standard, there is a requirement that renewable fuels be purchased and distributed. To keep track of whether this is occurring, the federal government has required that a RIN be attached to ethanol that is produced at a plant. The RIN travels with the ethanol so that at the end of the year, EPA can track the use of the ethanol and ensure that sufficient amount has gone into gasoline to fulfill the RFS. The RIN stays with the ethanol and normally goes to the person or company that blends the ethanol. Therefore, if a company (i.e. Exxon) has not blended enough ethanol, they can purchase RINs from another company that has blended ethanol, therefore, the RINs have market value. Typically the value of the RINs is expressed in the wholesale value of the ethanol blended into the gasoline. Currently, the 2009 value of RINs is approximately $.03/gallon and the 2010 value is $.0575/gallon.

Once again, I support this bill because it is about giving a person or company the freedom to be able to buy clear gasoline and blend it themselves. I would urge you to support free trade by supporting SB 425.

Thank you for your attention and I would urge your support of SB 425. I would be happy to stand for questions at the appropriate time.

Western Plains Energy, LLC • 3022 County Road 18 • Oakley, Kansas 67748-6064

growth energy™
America's Ethanol Supporters

777 North Capitol Street, NE, Suite 805, Washington, D.C. 20002
PHONE 202.545.4000 FAX 202.545.4001 GrowthEnergy.org

January 26, 2010

Chairman Mark Taddiken
Senate Agriculture Committee
Kansas State Capitol
300 SW 10th St.
Topeka, Kansas 66612

Dear Chairman Taddiken:

We are writing to you on behalf of Growth Energy's members across the country to express support for legislation proposed to your committee by the Petroleum Marketers and Convenience Store Association (PMCA) of Kansas relative to the blending of motor vehicle fuels. The Growth Energy Board of Directors encourage your committee to support the introduction of this legislation before the full Senate.

Currently, fuel distributors, manufacturers and importers supply retailers with both unblended and blended fuel. Many distributing entities recently announced however, that in the future, they will only provide blended fuel to retailers. This announcement poses a significant threat to local retailers and their ability to blend fuel at their own facilities. It limits their role in ethanol blending and instead gives control over the industry to distributors, manufacturers and importers.

The legislation proposed requires unblended fuel be made available to retailers at all storage and distribution terminals in the State of Kansas. It will help to encourage greater competition in the ethanol industry and by extension, provide consumers with greater choice at the fuel pump. Kansas supports a strong ethanol economy and this legislation can help to maintain a relationship between local ethanol plants and retailers.

Furthermore, by creating more opportunities for retailers to benefit from blender incentives, the provisions in this legislation can promote the increased investment in renewable energy that is vital to decreasing U.S. dependency on foreign oil. Growth Energy joins with PMCA of Kansas in support of this proposed legislation.

As your committee reviews this proposal, we encourage you to consider the benefits it would provide to consumers and retailers alike in Kansas. Please do not hesitate to contact Growth Energy's CEO Tom Buis at (202) 545-4000 should you have any questions.

Sincerely,

Growth Energy Board of Directors

Senate Agriculture Committee
February 2, 2010
Attachment 5

Kansas Grain Sorghum Producers Association

Kansas Corn Growers Association

WRITTEN STATEMENT

TO: Senate Agriculture Committee

FROM: Jere White, Executive Director

DATE: February 2, 2010

SUBJECT: Senate Bill No. 425

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers wish to submit this testimony in support of S.B. 425, a bill that would provide for fair competition regarding blended fuels in Kansas.

For background purposes, the Energy Policy Act of 2005 amended the Clean Air Act to establish a Renewable Fuel Standard (RFS) program. The Energy Independence and Security Act of 2007 requires 12 billion gallons of ethanol be blended into the gasoline consumed as motor vehicle fuel in the United States in 2010.

A federal tax credit (45 cents/gallon of ethanol) is available to the party that blends the ethanol with gasoline to produce blended fuel for sale to consumers. Most motor fuel in Kansas (80%) is blended to 10 per cent ethanol or "E10". An E10 blend realizes a federal tax credit of 4.5 cents per gallon to the blender of record.

Today, Kansas retailers of gasoline have two choices; 1) buy gasoline from major oil companies that already has ethanol blended into it, or 2) buy gasoline from major oil companies and then buy and blend ethanol, likely from local Kansas ethanol plants, into the gasoline themselves to produce the blended product.

Across the nation, a number of major oil companies have notified gasoline retailers that they will require the retailer to buy gasoline that is already blended with ethanol by the major oil company. Retailers buying from the major oil companies would lose the freedom to blend themselves and would lose the federal tax credit which goes to the blender of record. Senate Bill 425 would ensure that Kansas retailers would continue to have the opportunity to partner with Kansas ethanol plants.

Senate Agriculture Committee
February 2, 2010
Attachment 6-1

P.O. BOX 446, GARNETT, KS 66032-0446 • PHONE (785) 448-6922 • FAX: (785) 448-6932
www.ksgrains.com • jwhite@ksgrains.com

Without that ability, retailers for the most part are left with minimal competition. If Senate Bill 425 were to pass, retailers would continue to buy gasoline as they always have but will have the choice to either buy blended fuel at the terminal or just buy conventional gasoline and then blend it with ethanol themselves. We believe that "local" blending more often benefits consumers.

It has not been unusual to see ethanol priced at the ethanol plant substantially discounted to that of the terminal. As more distributors and retailers consider becoming the blender of record, ethanol plants and consumers alike will be rewarded. Better blending economics would also create synergy with our efforts to increase the use of higher ethanol blends in Kansas.

One additional benefit would be the continued ability of a retailer to have access to non-blended fuel for specialty consumers, such as classic cars and farm machinery.

Mr. Chairman, members of the committee, our members have consistently stood in support of virtually all pro-ethanol legislation considered by this legislature. We know that success in the marketplace for biofuels of any kind require competition as well as simply access. We urge your favorable consideration of SB 425.

Thank you.

MAGELLAN
MIDSTREAM PARTNERS, L.P.

Testimony of Magellan Midstream Partners, L. P. in Opposition to Senate Bill No. 425

Thomas L. Byers

February 2, 2010

Good morning. My name is Tom Byers and I am the Senior Government Affairs Representative for Magellan Midstream Partners. Magellan owns and operates refined product terminals in Kansas City, Olathe, Topeka, Wichita, Wathena, Scott City and Great Bend and approximately 2,800 miles of refined product pipeline in the state of Kansas. We also own and operate a refined products terminal in Carthage, Missouri that serves the southeast portion of Kansas. We do not own the gasoline, ethanol or diesel fuel distributed from our terminals. We would, however, be directly affected by SB 425 and therefore we are here today to express our opposition to the bill.

Magellan has a long history of blending ethanol into gasoline. We initially invested in ethanol blending infrastructure at our terminals in Iowa in the early 1980's and today, we have ethanol-blending equipment at 59 of our 85 terminals.

Section 3 (a) of SB 425 provides that businesses that offer motor fuel at terminals or bulk-storage plants in the state "...shall offer for sale at such terminal or bulk-storage plant or through delivery by motor vehicle, each grade of motor-vehicle fuel which is not preblended with ethanol and which is suitable for subsequent blending with ethanol...." This provision is designed to promote a method of blending ethanol into gasoline referred to as "splash blending". Splash blending ethanol at off-site bulk plants leaves the quality control of the finished blend in the hands of delivery truck drivers. Terminal blending infrastructure, on the other hand, provides superior quality, computer controlled, ethanol-blended gasoline and ensures that it meets all required specifications.

The ethanol blending infrastructure at Magellan's facilities cost approximately $2 - 3 million per location. It utilizes sequential blending in which the ethanol is injected into the truck storage compartment followed by the gasoline. For example, if there is a 1000 gallon load of E10 gasoline, 100 gallons of ethanol would first be injected into the trailer, immediately followed by 900 gallons of gasoline. Because the two components are thoroughly mixed through the injection process, they do not stratify once they are unloaded at the retail location. And, because the gasoline blend is selected using computer software at the terminal's truck loading rack, the accuracy of the blend is assured. Such precise measurement of the ethanol does not exist where splash blending is done by the driver at an off-site bulk plant.

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Attachment 7-1

Another advantage of terminal blending is that the gasoline and ethanol components can be documented on a single bill of lading (assuming the supplier is the same for both components). This provides a better paper trail for tax, accounting and auditing purposes, an advantage that usually does not exist when the gasoline is taken to an off-site splash blending bulk plant.

In addition, Magellan has implemented a quality control program, the level of which will probably not be found at an off-site splash blending bulk plant. Suppliers go through a stringent approval process before they are allowed to deliver ethanol into our terminals. In addition, Magellan takes a sample from each ethanol truck that enters our terminal. A portion of these samples are tested at our world-class laboratory in Kansas City, Kansas.

In the near future, refiners, marketers and other shippers may deliver a "sub-octane" gasoline into Kansas terminals via pipeline. This product must be blended with ethanol for it to be suitable for use by motorists. Sub-octane gasoline is typically less expensive than conventional gasoline and this bill would present unnecessary market barriers which may reduce the availability of sub-octane fuel from being available in the state since many fuel suppliers will not be comfortable loading trucks with a fuel that is not compliant with state and federal product quality specifications.

Blending ethanol at terminals before the fuel leaves the facility ensures the blended product will meet specifications and provide the performance that motorists have come to expect. Section 3 (b) will cause unnecessary market intrusion which will in turn lead to questionable product quality, inefficiencies, increased air emissions and higher costs for motorists. For these reasons and in order to avoid unintended consequences being passed on to unsuspecting motorists, we respectfully request that you vote in opposition to SB 425. Thank you.

Kansas Petroleum Council

Comments Presented to the Senate Committee on Agriculture

In Opposition to Senate Bill 425

February 2, 2010

Good morning, Mr. Chairman and members of the Committee. My name is Ken Peterson, director of the Kansas Petroleum Council, a trade association with members who manufacture gasoline and diesel fuel for sale in Kansas.

We oppose Senate Bill 425. Make no mistake about it - this is a mandate on refineries to produce gasoline that may – or may not – be used by wholesalers to make their own ethanol or biodiesel.

This proposal imposes obligations that conflict with federal law. It violates interstate commerce. It raises serious questions about trademarks and fuel quality.

To begin with, Section 1 is a false premise. It states that the purpose of the bill is to promote blending in order to reduce imported oil. The Bill does not reduce dependence on foreign oil, because it does nothing to increase the production or consumption of renewable fuels. The bill addresses who can blend renewable fuels, not how much blending they must do. The bill could reduce the use of renewable fuels in Kansas because it requires refiners to sell unblended gasoline without obligating the distributors and retailers to blend it with renewable fuels.

Refineries, those who manufacture gasoline, diesel and appropriate blended renewable fuels, are under a legal obligation to blend increasing volumes of renewable fuels with gasoline. They are obligated parties who must meet mandated volumes of ethanol and biodiesel on an annual basis. As Obligated Parties, fuel makers are required to sell recorded, reported and calculated amounts of blended fuels. In contrast, those who want this legislation are not obligated parties.

The national Renewable Fuel Standard is advanced to the greatest extent when a refiner blends a renewable fuel, such as ethanol, into every gallon that it produces. This bill would prevent a refiner from making that choice, and instead require them to sell unblended gasoline to distributors and retailers on demand.

The bill creates serious obstacles to the overall national goal of using more renewable fuels, and achieving that end in the most efficient and effective manner possible.

Federal law imposes strict specifications on gasoline, standards that can be met only if renewable fuels are properly blended. A significant amount of gasoline is sold at retail in Kansas under trademarked brands. Consumers rely on those trademarks in order to know the gasoline meets their expectations of quality and consistency.

Senate Agriculture Committee
February 2, 2010
Attachment 8-1

SUITE 1005 ● 800 SW JACKSON STREET ● TOPEKA, KANSAS 66612-1224
PHONE: 785.234.0589 ● FAX 785.235.6179 ● E-MAIL: kansas@api.org

This bill takes away the right, under federal trademark law,that refiners have to ensure the quality of their products. By giving wholesalers the right to purchase unblended gasoline and blend it with biofuels, refiners are prevented from ensuring that their fuels meet government specifications.

The Kansas Department of Agriculture is given authority to enforce provisions of this ill-conceived bill. I would respectfully ask how the department can enforce this bill, and do they have an adequate number of staff members to do so?

Members of the Committee, refiners are serious about their opposition to this bill. Refiner trade associations have filed federal lawsuits to block similar legislation in Tennessee and North Carolina. Those cases are pending.

We respectfully ask that the committee reject this legislation as unwarranted, unconstitutional, and as a hindrance to the continued success of the national Renewable Fuels Standard.

Thank you for your courtesy and attention.