

2011 SENATE AGRICULTURE

SB 2030

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2030
01/06/2011
12613

Conference Committee

Committee Clerk Signature *Greta Nelson*

Explanation or reason for introduction of bill/resolution: Biodiesel plant production incentives.

Minutes:

Attachment: #1

Chairman Senator Flakoll Meeting called to order on the 6th day of January, 2011. SB 2030

Clerk take roll call. Senate members present (7-0-0)

Tim Dawson Bill creates a biodiesel production incentive for new biodiesel production incentive and for increased biodiesel production. Based on pre-counter cyclical ethanol production incentive program that was pre-1995. This bill does not have a funding source all though it creates a fund and creates an incentive there is no money in the bill. Look at Section One 17-09-01 it relates to new biodiesel plant incentives subsection one places a cap on incentives for this new biodiesel plants up to one million five hundred thousand dollars in a fiscal year. Subsection Two creates a formula for these incentives multiplying the number of gallons biodiesel produced by the plant by 5 cents. The second section of 17-09-02 creates an incentive for increase production and can be the increase of the lesser of 10 million gallons or 50% of the production capacity of the plant. In 17-09-03 are subsidies limitations that go on further. One million five hundred thousand dollars per eligible facility annually is a cap and overall cap of 7.5 million and 5 years. In 17-09-04 created a biodiesel production incentive fund and all monies are appropriated out through the office of New able Energy and Energy Efficiency and Dept of Commerce. For paying the incentives that are created under the bill, however, again, there is no funding in the bill.

Senator Klein: To get to the funding, we currently have just one facility running or do we have any? Can you update us what we have going right nowVelva discussion and that discussion went away. Refresher please.

Tim Dawson: Better people to answer this question. I think Velva is the only one out there. Not sure of the status out there if they are making veg oil or biodiesel at this time.

Senator Klein: Suggesting should they continue because they would be a pre-plant any day to produce additional gallons to get the incentive, where as the new facilities would fall under the first section.

Tim Dawson: Correct

Senator Flakoll: If this bill were to pass un-amended, what happens?

Tim Dawson: Nothing

Senator Flakoll: Show hands how many plan to testify on the bill one way or other.

Senator Flakoll: Anyone else to speak in support of the bill.

Justin Dever: (Attachment #1) Speaking in favor of Senate Bill 2030. I serve as manager of Office of Innovation and Entrepreneurship for the ND Dept of Commerce. I am here on behalf of Commerce Commissioner Paul Govig who is chairman of the EmPower North Dakota Commission. (Attachment #1)

Senator Klein: Background as to what is happening in ND?

Justin Dever: Not sure as to what Velva is producing but it is largest, not sure as to what else is going on out there. Has capacity of 85 million gallons per year. Recent times it has been more economical to produce Vegetable oil instead of converting it to biodiesel had to do with the biodiesel blender tax credit at the federal level which had expired which has recently come back on the books.

Senator Heckaman: Can you tell me why I should vote for this if no funding source attached to it?

Justin Dever: Rational is to incentivize additional biodiesel plants...you are correct if there are no funding source in this bill would do nothing. Not that the EmPower Commission didn't feel that this should not be funded, just not aware of what the appropriate funding source should be. The ethanol production incentive has specific funding source in statute and not sure of what the best route that would be...we thought that would be an appropriate legislative decision.
Continue

Senator Heckaman: At the coffee table, what were the thoughts of where the funding would come?

Justin Dever: Potential marrying what the ethanol production incentive fund is which is a portion of what the refund that agriculture gets on the gasoline tax.

Senator Klein: APUCK(?) has to share that money, too. My thought was that without a mechanism we have nothing, at least with a mechanism, we can start working on this through the session and see what sort of creative ways we can come up at our coffee tables.

Senator Flakoll: As drafted page one section one subsection one, there is really no cap move to dialog on or move in terms of action itemsFurther along we say this is a good idea, but we would not have accomplished muchtorn between either have something happen or you kill the bill.

Senator Klein: We will not let this die a slow death as we have time to work on this and will come up with some ideas.

Senator Flakoll: Questions. New people to our process. Justin wrote a fiscal note. Anyone else wants to ask on that because specifically to this ...covered a lot of it. Just so people aware how the process goes. We do have specific names assigned to provide fiscal notes to this case...in this case; we have the person's name. Times later on that we do need them to walk us through this why it cost this to do that.

Senator Klein: Hear from canola could explain which plants we have out there? Get a feel for what we are looking for dollars.

Senator Flakoll: First ask anyone want to testify in opposition to the bill?

Senator Klein: Update background and where they're at and hoping to go?

Barry Coleman: NCGA (National Corn Growers Association) we have one biodiesel plant in the state at Velva the plant had in the last year had minimal production of biodiesel because of the ethanol incentives were not extended by congress like they were told they would be done a year ago. Really not much production last year, right now prices are quite attractive looking at 55 cent bean oil, 60 cent canola oil per pound, it's tough to make economics work for biodiesel. Currently, very minimal production of biodiesel occurring. Maybe in the future if this economics turns around but at this time, nothing is being done. This bill certainly is not going incentivize the current present biodiesel plant that we have in the state and will be meaningless to them.

Senator Klein: Over past couple years we hear variety group trying to attempt strike out to produce some type of biodiesel fuelThose are all gone now? Just asking?

Barry Coleman: Have had several plants over the years; however, nothing has become of them. Talk of a biodiesel X plant in Minot, but not to likely to happen.

Senator Miller: What's your estimation for future economics on canola oil, soy bean oil, mainly go into food production? My guess it would be sad situation for at least the next 5 years.

Barry Coleman: Correct the highest invest use is for food product...biodiesel industry will certainly provide for soy bean and canola oil industry. Nice to have that as a space but primary use will continue to be food.

Senator Klein: Canola market is strong and be another crunch for acres and canola will probably begive a quick assessment as where we are going with canola.

Barry Coleman: Canola acres were up over 70% last year. We had nearly 1.3 acres production is up significantly. We are hearing that next year will be up again, things are going well for agriculture. We have seen prices higher only once in 2008. All indicators are pointing upward. Much less imported from Canada due to our increase production in ND....using more of our product from ND.

Senator Flakoll: All had opportunity to testify support and opposition to the bill as no one in opposition to the bill.

Robert Runck, Jr.: (North Dakota Soy Beans Growers Association) Last Legislative Session, we spent a lot of time and money in energy trying to decouple the biodiesel tax incentive in turning them in to a crushing incentive. Main reason for doing that is that we didn't want to steer people down the road we can't travel. Not feasible at the time to make biodiesel, there may be alternative uses, as Barry told you, may go in to the food grain market. We decouple those incentives at last session, (not been used as of this time to my knowledge) if you are trying to incentivize more economic development in the state, to move forward look at increasing incentives for crushing facilities. Not attaching them directly to bio fuels. My suggestion.

Senator Flakoll: Questions

Senator Miller: Crushing business, must decide which industry going into either food or Biodiesel fuel.

Robert Kunck: My travels, through Missouri at facility just being build....produce biodiesel on sight, but this is a crushing facility first. Maybe become biodiesel, so physically have to crush and squeeze the oil to make the bio need to go into the vegetable market or wherever you may go. As discussed the high price of oils at this time, it is absolutely infeasible to do, but maybe alternative areas these oils may go. Maybe biodiesel through soy beans maybe become a bi product....a secondary product.

Senator Miller: Crushing can go either way.

Robert Kunck, Jr: The incentive should be kept it in the crushing sidelet the environment of the economy dictate which way it should go.

Senator Murphy: Wondering if Senator Miller's point could be based on building a facility of crushingif food, you need point production statistics handling ...you need to trace back it is going to be food. Depend upon whatever year they decide to switch it over. Then growers would be notified. Aren't the stats different for food as opposed to biodiesel?

Robert Kunck, Jr: Not sure

Senator Flakoll: Any other opposition?

Senator Flakoll: No neutral testimony from floor

Senator Flakoll: Close hearing on Senate Bill 2030

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2030
January 20, 2011
13159

Conference Committee

Committee Clerk Signature *Greta Nelson*

Explanation or reason for introduction of bill/resolution:

Biodiesel Plant production incentives.

Minutes:

You may make reference to "attached testimony."

Committee Meeting for SB 2030

Timer set at 52:23

We have about 6 bills sitting out here.

Senator Flakoll: Begin with SB 2030

Senator Flakoll: Haven't heard the interest or need for any companies needing to do this. Senator Klein has looked for some money, but is there a motion?

Senator Klein: I did find some money, however, I also looked at last session's law into the biofuel program which we allocated 3 million dollars and allocated that money to be used for biofuels or livestock production to use the remains of the fuel/material. The livestock guys are using the program to about 1.4 million, still 1.3 million left in the fund.....looking for another million. They feel confident that whatever we are trying to do here, they can already do in the other program. Visiting with the soy bean folks, they were fine with it also.

Senator Miller: I move we do not pass

Senator Heckaman: second

Senator Flakoll: discussion

Senator Miller: Ditto to Senator Klein comments...got to be more support for it in the industry.

Senator Klein: We don't think there will be another biofuel facility built in the near future. BND has run through a lot of money in the beginner farm loan program...better to use the money with that then to have money sitting waiting for something to happen.

Senator Flakoll: Not good to be locking up money for something to happen...other bills that would certainly be made available.

Clerk take Roll Call vote for SB 2030 for do not pass

Clerk 7 yes/ 0 no/ 0 absent

Senator Flakoll : Motion Carried Senator Klein will carry the bill

Timer set conclusion: 43:00

FISCAL NOTE

Requested by Legislative Council
12/16/2010

Bill/Resolution No.: SB 2030

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates a biodiesel production incentive program for new or expanded biodiesel plants. This incentive would provide five cents per gallon of biodiesel produced to eligible facilities.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill creates a biodiesel production incentive program to be administered by the Office of Renewable Energy and Energy Efficiency. It creates a biodiesel production incentive fund; however, no funds are appropriated or transferred into this new fund. Without a funding source, this bill would not have a fiscal impact.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Without a funding source, this bill would not cause any expenditures.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No appropriations were included in this bill nor were they included the executive budget. This bill creates a biodiesel production incentive fund with continuing appropriation authority.

Name:	Justin Dever	Agency:	Department of Commerce
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Phone Number: 328-7258

Date Prepared: 01/03/2011

Date: Jan 20, 2011
 Roll Call Vote #: 7-0-0

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. _____

Senate Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 2030

Action Taken Do NOT Pass

Motion Made By Senator Miller Seconded By Senator Heckaman

Representatives	Yes	No	Representatives	Yes	No
Senator Tim Flakoll	✓		Senator Joan Heckaman	✓	
Senator Oley Larsen	✓				
Senator Jerry Klein	✓				
Senator Larry Luick	✓				
Senator Joe Miller	✓				
Senator Bill Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2030: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO NOT PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2030 was placed on the
Eleventh order on the calendar.

2011 TESTIMONY

SB 2030

#1

**DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2030
JANUARY 6, 2011, 9:30 A.M.
SENATE AGRICULTURE COMMITTEE
ROOSEVELT PARK ROOM
SENATOR TIM FLAKOLL, CHAIRMAN**

**JUSTIN DEVER – MANAGER, OFFICE OF INNOVATION AND ENTREPRENEURSHIP, ND
DEPARTMENT OF COMMERCE**

Good morning, Mr. Chairman and members of the committee, my name is Justin Dever and I serve as the manager of the Office of Innovation and Entrepreneurship for the North Dakota Department of Commerce. I am here today on behalf of Commerce Commissioner Paul Govig who is the chairman of the EmPower North Dakota Commission.

The EmPower North Dakota Commission was established by the 2007 legislative assembly and made permanent by the 2009 legislative assembly. Its members are appointed by the Governor. It is an industry lead effort that allows all of our energy industries, both renewable and traditional, to have a voice into the state's energy policy.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2030. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A complete list of bills recommended and supported by the Commission is below:

- Senate Bill No. 2030 – Biodiesel Plant Production Incentive.
- Senate Bill No. 2031 - Sales and Use Tax Exemption for Wind Towers.
- Senate Bill No. 2032 – Oil and Gas Research Council.
- Senate Bill No. 2033 – Energy Development Impact Office.
- Senate Bill No. 2034 – Green Diesel.

Senate Bill 2030 creates a biodiesel plant production incentive program to be administered Office of Renewable Energy and Energy Efficiency within the North Dakota Department of Commerce. This bill would provide new or expanded biodiesel plants with an incentive of five cents per gallon of biodiesel produced. This incentive would be limited to \$1.5 million per eligible facility and each facility would only be able to receive the incentive for five years.

One thing missing from this bill is a source of funding. The EmPower ND Commission felt it was not in a position to recommend a funding source and the interim Energy Development and Transmission Committee did not add a funding source. Without a funding source, no payments would be made under this program.

~~That concludes my testimony and I am happy to entertain any questions.~~