

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4009

2007 SENATE JUDICIARY

SCR 4009

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SCR 4009

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2802 and 2806

Committee Clerk Signature

Matthew L. Sallary

Minutes: Relating to the ethanol content of gasoline and the biodiesel content of diesel fuel.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Resolution:

Sen. Hietkamp, Dist. #26 Introduced the resolution. (meter :15) This debate has been here in this state before. Spoke of his 550 gallon gas tank on the farm and its use for farming. The market is very volatile. Who controls the market? We need to control our own future. Cited the biodiesel plants in there start up process here in ND. How do we sustain them? The foreign sources have the ability to control the market and manipulate the market to make the ethanol plant to expensive. Spoke of mandating ethanol as an insurance or safety net for the industry. Spoke of what people are doing in MN.

Sen. Nething stated that there is no argument about the ethanol but why put this in the constitution, why not put it under laws? To strengthen it. If you think it is to strong to put into the constitution, then you can put it into law. Sen. Nething replied that it was to late to make a delayed bill and you can not put a Concurrent Resolution into a Law. He also stated that the only thing the committee can at this time decide is if it can be put into the constitution. Spoke of the provision in the law to use lignite. (meter 6:20) and the nightmare that proceeded this.

This was not even in the constitution. Sen. Nething stated that this type of use is market driven and why would the government mandate the market. Discussion of the market (meter 7:55). 70% of the oil supplies could "hamstring the market."

Sen. Nelson stated on line 9 was it a typo (meter 9:00) 2008 not 2006. Discussion of the percent of ethanol our surrounding states have in their gas. Sen. Nething asked if the other states have placed this in their constitution? I do not know, but I could find out for you.

Roger Johnson, ND Ag Commissioner (meter 10:43) Gave testimony – Att. #1. Stated his approval of 10% blend Referred to his chart 1b.

Sen. Fiebiger asked in (meter 18:30) reference to the chart. Isn't ethanol already being market driven? This chart is in reflection of "producing" not "consuming"

Sen. Nething asked if force the dealers to have the ethanol in the gas and not the consumer decision to purchase, you are talking about a potential not an actual-referring to his charts. Discussion of the question on the bill is it being a "constitutional" issue or not.

Testimony in Opposition of the Resolution:

Mike Rude, ND Petroleum Marketers Assoc. (meter 20:05) Handed out a chart – Att. #2 The voters speak at the pump. Reviewed flow chart and stated that you "educate" not "mandate".

Tom Balzer, ND Motor Carriers Assoc. This resolution does not belong in our constitution. Consumers should drive a product. Spoke of what would happen in a rural area with only one pump and the dilemma this would make it-not all vehicles can run on this. Talked of the ASTM Standards not being good enough and the issues of biodiesel "jelling" up in the extreme cold. He said he would be the first to drive down the road smelling like a French fry, if he thought it could make a difference.

Testimony Neutral to the Resolution:

None

Senator David Nething, Chairman closed the hearing.

Senator David Nething, Chairman reopened the hearing.

Sen. Nething stated that while the intent was very good, how could we put this into the constitution? It is too late for us to put it into a bill. The committee agreed and discussed it.

Sen. Nelson made the motion to Amend SCR 4009 and **Sen. Fiebiger** seconded the motion. All members were in favor and the motion passes.

Sen. Olafson made the motion to Do NOT Pass as amended and **Sen. Lyson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Olafson**

Senator David Nething, Chairman closed the hearing.

Date: 2-5-07

Roll Call Vote # /

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

SCR
BILL/RESOLUTION NO. 4009

Senate Judiciary Committee

Judiciary

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend on line 9 + line 13 + a Delete

Motion Made By Sen. Nelson Seconded By Sen. Frebiger

Total **Yes** **No**

Absent

Floor Assignment

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

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

If the state is in an asymmetric equilibrium, then the steady-state π

Date: 2-5-07

Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

SCR
BILL/RESOLUTION NO. 4009

Senate _____ **Judiciary** _____ **Committee**

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass as Amended

Motion Made By Sen. Olafson Seconded By Sen. Lyson

Total Yes 6 No 0

Absent *f*

Floor Assignment Sen. Olafson

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

REPORT OF STANDING COMMITTEE

SCR 4009: Judiciary Committee (Sen. Nethling, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4009 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "2006" with "2008"

Page 1, line 13, replace "must" with "shall", replace "a" with "for sale gasoline containing at least", and remove "blend of"

Page 1, line 14, remove the first "for sale".

Page 1, line 15, replace "must" with "shall"

Renumber accordingly

2007 TESTIMONY

SCR 4009

Roger Johnson
Agriculture Commissioner
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Att #1a
2-5-07

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**Testimony of Roger Johnson
Agriculture Commissioner
SCR 4009
Senate Judiciary Committee
Fort Lincoln Room
February 5, 2007
10:30 am**

Chairman Nething and members of the Senate Judiciary Committee, I am Agriculture Commissioner Roger Johnson. I'm here today to offer testimony in favor of SCR 4009, which would add a new section to our state constitution requiring retailers selling gasoline and diesel fuel to also offer gasoline blended with 10 percent ethanol diesel fuel blended with 2 percent biodiesel for sale at their place for business. This measure would be put to a vote of the people during the next general election.

Several other states – Minnesota, Hawaii, Louisiana, Missouri, Montana and Washington – have established standards that currently require or will require their gasoline and/or diesel fuel to contain ethanol and/or biodiesel. SCR 4009 does not require that every gallon of gasoline sold or used contain ethanol, but it does require retailers to offer that blend of fuel.

I have long supported a straightforward 10 percent ethanol requirement in all gasoline sold in this state. Efforts to pass a 10 percent requirement have failed each time they've been brought before the legislature. As legislators, you really have two options when it comes to passing laws. Either you require someone to do something or you put incentives in place to accomplish the same thing. Requirements, or mandates as many like to call them, are the less expensive route to take.

North Dakota stands to reap great economic benefits from development of renewable energy production and consumption. North Dakota is currently home to three operating ethanol facilities – Alchem, Grafton; ADM, Walhalla; and Red Trail Energy, Richardton - with a combined annual production capacity of 83.5 million gallons. Blue Flint Ethanol, Underwood, with a production capacity of 50 million gallons per year, is scheduled to come online early this year. Additional projects totaling 200 million gallons of ethanol production capacity have been announced or are under construction. Currently, North Dakota is turning approximately 20 percent of our annual corn production into ethanol. 80 percent of our corn production will be consumed by ethanol production once the projects that have been announced or are under construction come on line. (Attachment 1)

ADM is also constructing a new canola-based biodiesel facility at Velva with a production capacity of 85 million gallons per year. Several additional projects – corn and cellulose ethanol projects, canola and soy biodiesel projects and oilseed crushing facilities – are also being contemplated across the state. The establishment of these production facilities is a positive step forward in the development of renewable energy industries, but much more remains to be done.

We must also do more to encourage the consumption of the ethanol and biodiesel that will be produced in the state. Ethanol accounted for 5.14 percent of gasoline sales by volume from May 2005 through April 2006. Ethanol was blended into approximately 48 percent of the all gallons sold during that same time period. The total number of taxable gasoline gallons sold in North Dakota from May 2005 through April 2006 was nearly 360 million gallons.

North Dakotans agree that renewable energy development needs to be a priority for North Dakota. The North Dakota Renewable Energy Partnership, in cooperation with the Office of Renewable Energy & Energy Efficiency, commissioned the University of North Dakota Bureau of Governmental Affairs to conduct a public opinion survey on renewable energy issues in North Dakota. More than 600 North Dakotans, equally split male and female, were surveyed from June 13th to July 12th of 2006.

The survey showed that overwhelmingly, North Dakotans support renewables. Of those surveyed:

- 93 percent believe that renewable energy should be a priority in our state legislature.
- Nearly 80 percent support a 10 percent ethanol blend requirement in gasoline sold in North Dakota.
- 87 percent support a tax advantage for ethanol that makes ethanol cheaper than regular gasoline.
- 83 percent support a 2 percent biodiesel blend requirement in North Dakota's diesel fuel supply.

- 83 percent believe the state legislature should provide incentives that encourage the production and use of biodiesel.

The production and use of renewable fuels is of paramount importance not only to our state, but as part of our country's national energy security strategy. Retired Air Force General Charles "Chuck Wald – a North Dakota native – addressed the attendees of Marketplace for Entrepreneurs in Fargo just last week. General Wald described a sobering picture of US and world energy production and consumption. Wald said that the United States currently spends approximately \$50 billion annually to ensure the free flow of oil throughout the world. When amortized to the price of gasoline, Wald estimated that US citizens are currently paying approximately \$6.50 per gallon of gasoline consumed.

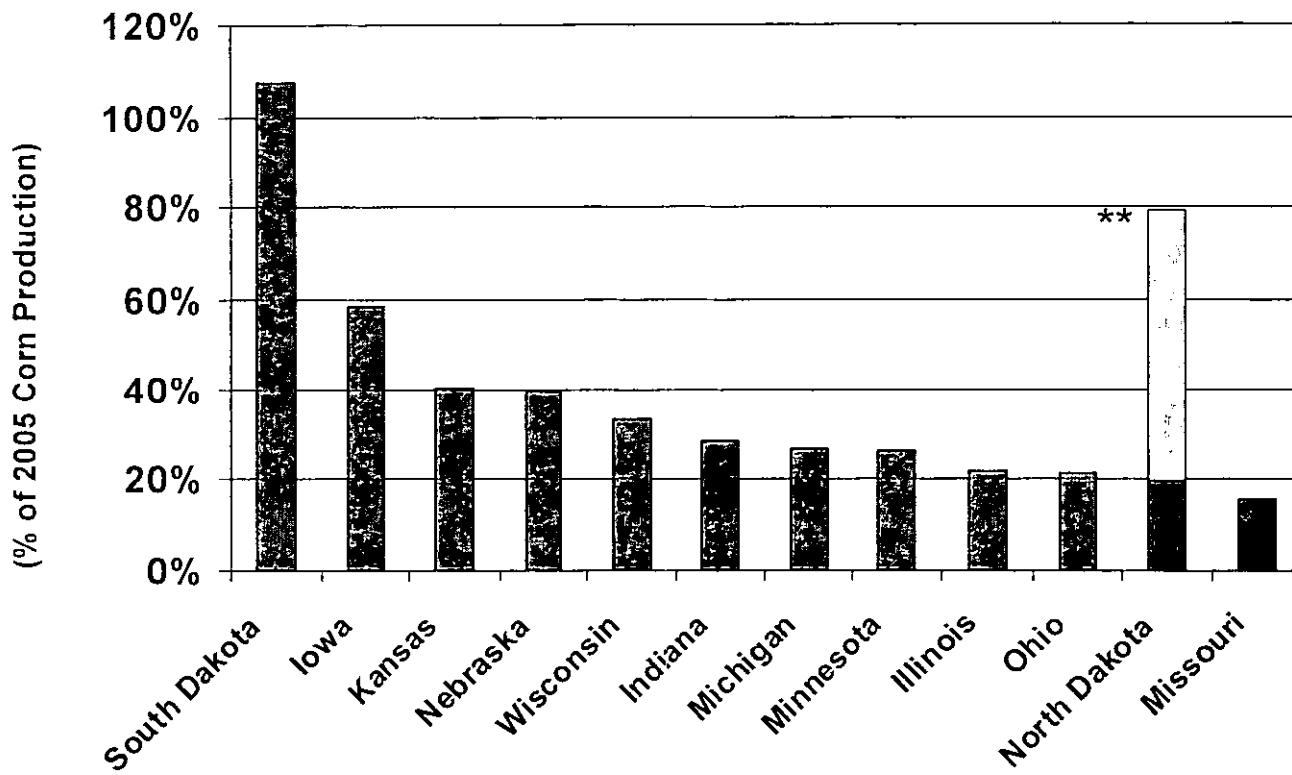
President Bush in his State of the Union address earlier this week also spoke about our energy situation, saying, "...it's in our vital interest to diversify America's energy supply...we need to...expand the use of...biodiesel fuel...we must continue investing in new methods of producing ethanol...using everything from wood chips to grasses to agricultural wastes...let us build on the work we've done and reduce gasoline usage in the United States by 20 percent in the next ten years."

The federal renewable fuels standard sets a base for the ethanol market in this country. I supported the establishment of the federal standard and I will support a substantial increase to that standard during the 2007 farm bill debate. Setting a state standard is important, as well; it provides a local market for the 300+ million gallons of ethanol we are going to be producing in

this state. North Dakota should consume as much of the ethanol, biodiesel and related products as we can so that we can support local businesses and farmers and decrease our dependence on foreign source of oil. Perhaps even more importantly, such a state standard would send a strong message to consumers around the country who we want to buy and use our ethanol that we in North Dakota are practicing what we preach. A state standard also sends a welcoming message to the renewable energy industry that we not only want the economic development that the industry brings to our state, but that we will do what we can to build a market; these signals are important.

Chairman Nething and committee members, I would like to recommend a “do pass” on SCR 4009. Thank you for this opportunity to offer testimony. I would be happy to answer any questions you may have.

Corn Crop to Ethanol by State



**corn crop to ethanol including production that is announced or under construction

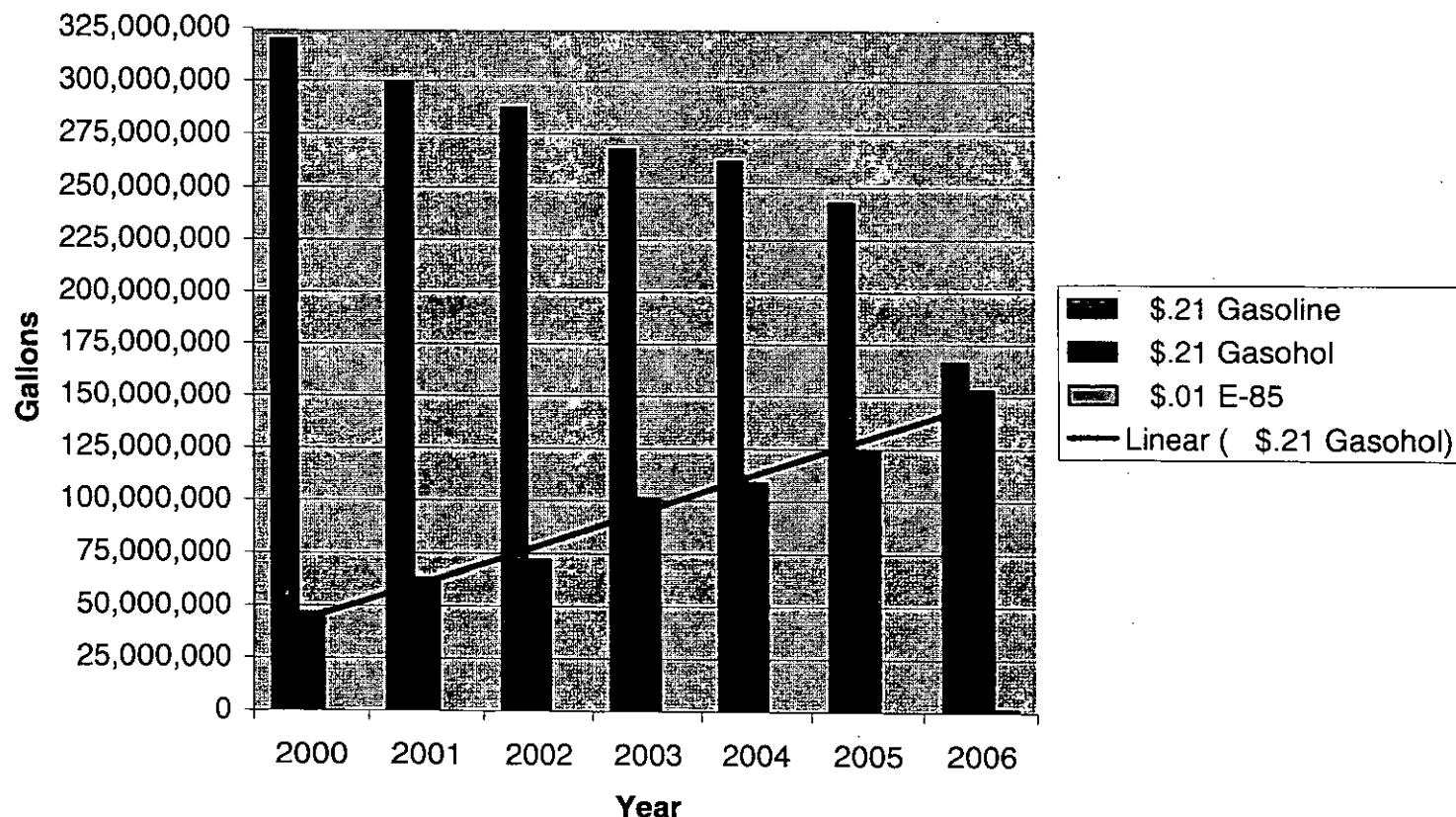
Sources: Renewable Fuels Association, National Agricultural Statistics Service

LO-S-T
9/ # 44

**Motor Vehicle Fuel
Taxable Gallons**

Year	2000	2001	2002	2003	2004	2005	2006
	319,441,875	299,334,460	287,253,545	267,865,489	262,108,957	242,567,191	166,390,066
	46,581,496	63,277,422	71,923,119	101,107,576	108,814,865	123,563,091	153,077,375
							1,369,032
	366,023,371	362,611,882	359,176,664	368,973,065	370,923,822	366,130,282	320,836,473
	12.73%	17.45%	20.02%	27.40%	29.34%	33.75%	47.71%

Motor Vehicle Fuel Taxable Gallons



6-5-0
#2