MICROFILM DIVIDER

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

ROLL NUMBER

DESCRIPTION

2270

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2270

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2270

Senate Industry, Business and Labor Committee

❑ Conference Committee

Hearing Date 2-02-05

Tape Number	Side A	Side B	Meter #
1		xxx	890-5580
Committee Clerk Signature Lisa VanBerkom			

Minutes: **Chairman Mutch opened the hearing on SB 2270. All Senators were present.**

SB 2270 relates to the ethanol production incentive fund.

Senator Trenbeath introduced the bill.

Senator Trenbeath: The legislature has provided incentive for ethanol production over the course of many years and one of the portions of this bill continues that incentive, for the existing plants. It also authorizes and sets forth the formula for which those payments of incentive can be made. It also introduces a new angle to the counter cyclical program that was established by the 58th legislative assembly for new plants coming online. Since the last biennium, none of those plants have come online, so none of those funds have been expended for those purposes. Section 2 of this bill would allow an existing plant that increases it's production by the lesser of at least ten million gallons or fifty percent of it's present production, to also be included under that program. That is the guts of the bill.

Chairman Mutch: Run that by me again about the ten million gallons.

Senator Trenbeath: If an existing plan were to increase it's production, by either ten million gallons or fifty percent of it's present production, which ever is lesser, they would be entitled to, not only the existing incentive, but the existing incentive for new plants.

Chairman Mutch: Last session, did they get any money?

Senator Trenbeath: Yes.

Senator Espegard: In section two, it says that if an existing plant expands and produces more ethanol, that they would receive that benefit as if they were a new plant.

Senator Trenbeath: Yes.

Senator Heitkamp: At what point, have we done enough for those plants?

Senator Trenbeath: I suppose that that point is reached when it is demonstrated that new plants are eager to come on line.

Todd Kranda, Attorney, spoke on behalf of ALCAM limited. It is one of the two existing and operating ethanol plants in North Dakota. See attached testimony.

Senator Klein: This bill is two different bills. I think at that point, last session, we felt it was difficult at the appropriations level to move forward with that. Looking at the APUC book, we have given ALCAM plant twelve million, nine hundred and thirty five dollars since 1989. With ADM, a total of almost twenty million dollars. I don't know if we have reached a point of stopping this. Is it still necessary to continue this, because my understanding is we've had a banner year in ethanol sales?

Todd: I don't know the data for the most recent years, so as to a banner year, I don't know. Production incentives have gone down. In 1997 there was a transfer of ownership, at that point, Mr. Newman, asked for and obtained some incentives at the level existing at that time under a ten year capitalization.

Senator Espegard, spoke in support of the bill.

Senator Espegard: Having been involved in the plant for the past twenty years, as a banker. Mr. Newman is not here today because he had a hip replacement surgery. ALCAM in itself, is the ethanol industry, in this state. There has been twelve million dollars worth of subsidy to this plant, but this plant has been there for twenty years and has lost in excess of that and gone broke. It went broke in 1995, not because anyone was taking money out of it, but because it was not a mature industry. This industry fluctuated in a couple of ways. Mostly with the price of ethanol and corn. So even though the state has provided the money, for the most part, it wasn't there to enhance the profit, it was there to cut back the lost. They just a banner year, you could say, because ethanol is a great price. In the past twelve months, it has gone from less than a dollar to almost two dollars back to a buck seventy seven. Although the year is banner today, it has not been a high year for ethanol. Higher than in the past. I believe the industry is mature, but just barely mature. The other thing that has effected the banner year, is that even though the price is a buck and a half, corn was not cheap. It is today, but back in June of 2004, it was short supply. Corn was purchased for almost three dollars at a poor quality. Not only did you have to honor your contracts, which they did, they didn't get cheap corn. The largest issue is energy. It takes 600,000 decotherms of fuel, natural gas. This year natural gas was over two dollars. In other words, the cost of fuel for that plant was 1.5 million to about 1.6 million dollars. In 2004, it averaged just under six dollars. You can multiply that and find out that the fuel bill went up over three and a half million dollars. You can take ten million gallons and multiply it by twenty five or thirty cents, you'll come up with more money. But then subtract off the fuel bill and you will see that it wasn't a banner year. This company this year will have made around seven hundred thousand dollars. Six hundred of that came from APUC. Without that, it would barely make enough money in this banner year. Does it need it forever? Probably not. Does it need it for a while yet? I believe it does. Does it need it to sustain itself? Probably. There has been a considerable amount of money invested in the last five years, saved all of the jobs up there and spent over ten million dollars again this year to purchase and put a coal fired plant up there. That's the commitment that is there and that is why the request for two more years for six hundred thousand dollars. It is the only ethanol industry we have today.

Chairman Mutch: There is a disparity in the amount of money you will allocate to the other plant in Wahlhala.

Senator Espegard: The difference is production size. That is a thirty million gallon plant and has always received about half as much as the other plant.

Senator Heitkamp: The goal isn't to have low corn prices, right?

Senator Espegard: More use naturally will cause for more price for corn, locally.

Senator Klein: Originally there was no money for those plants in SB 2222, but we are trying to move the ethanol industry forward. When is enough enough?

Senator Nething: If this plant doesn't operate, how many acres of corn will be impacted within the state?

Senator Espegard: This plant uses three million six hundred and fifty thousand bushels of corn, three hundred thousand bushels a month.

Senator Nething: My question is where does the corn come from?

Senator Klein: The price is based on the Chicago Board.

Senator Espegard: Corn is bought from the farmer at whatever he will sell it for plus freight.

John Snyder, APUC, spoke about the bill. (neutral)

John: We are just administering the funds. We support all value added businesses in North Dakota and all increasing ethanol industry as a whole.

Senator Klein: You would agree that as we go through this process, people are continually picking away at the funds in your bank.

John: Yes.

The hearing was closed. No action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2270

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-08-05

Tape Number	Side A	Side B	Meter #
2	xxxx		40
Committee Clerk Signature Lisa VanBerkom			

Minutes: **Chairman Mutch allowed committee discussion on SB 2270. All Senators were present. SB 2270 relates to ethanol production incentive fund.**

Senator Klein: The amendments remove the first section that provides for the direct payment.

Senator Nething: Why are we doing that?

Senator Klein: The issue is, where is that money going to come from?

Senator Espegard: It is going to come from the production incentive.

Senator Klein: And if there is no money left in that....

Senator Espegard: There will be money in there because as of August 1 of 2005 another 1.6 million dollars going in.

Senator Nething: That's when the payment would go out.

Senator Klein: The idea here is that if they have additional increased production that they could participate in the countercyclical, on page two.

Senator Espegard: This is certainly an addition, and certainly the ethanol plants have received a lot of money in the past, but they are our ethanol industry in the state.It hasn't been a boom. I told you about it in testimony. Ethanol is about a buck forty today. By the time the new plants would get up and running, there will be two more years of 1.6 million dollars in there, even if the current one gets built, it will take almost fourteen months to get paid. They haven't got it in there plan that they are going to get the subsidy. There is going to be money available for new plants and I think we should support our existing ethanol industry another two years.

Senator Heitkamp: Part of what we seem to be struggling with is how we are going to fund new ethanol? The purpose to me with the incentives on ethanol, is to get it started. It seems to me at some point, some of these dollars need to go toward new industry.

Senator Espegard: They have not made money. Their financial statements are on hand. You can see, where although the state has subsidized ethanol, to the tune of twelve million dollars with this plant, you won't find a profit because these plants have been here for twenty years trying to get an ethanol industry started in this state.

Senator Heitkamp: I would take exception to the fact that they are trying to get ethanol expanded in the state. When it comes to their plant, they are. The reality is, at some point, the state has to decide when you can make it on your own.

Senator Nething: It seems to me that in any business, you take care of what you have first. What good does it do to put money into something new, if that which you already have, is not going to succeed. The funding is in place for this. This has helped develop a lot of corn growers in North Dakota, the two we have got.

Senator Klein: We were on board with this last session. We need to build the funds up because we could have two possibly three more facilities.

Senator Klein moved to adopt amendments that he presented to the committee.

Senator Heitkamp seconded.

Roll Call Vote: 4 yes. 3 no. 0 absent.

Senator Espegard moved to adopt the amendments he brought to the committee.

Senator Nething seconded.

Roll Call Vote: 4 yes. 3 no. 0 absent.

Senator Nething moved a DO PASS AS AMENDED.

Senator Espegard seconded.

Roll Call Vote: 5 yes. 2 no. 0 absent.

Carrier: Senator Espegard

FISCAL NOTE

Requested by Legislative Council
04/14/2005

REVISION

Amendment to: Reengrossed SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$1,750,000		$400,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1 of this bill has a fiscal impact of $1,350,000.

Note: If the two current facilities were to expand and meet the qualifications described in section 2, they would be "eligible" to collect a maximum incentive up to $1.6 Million per year.

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.*

   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.*

The projected expenditures for the 2007-2009 biennium are based on a 15 million gallon per year expansion for each of the two existing plants, last year's corn and ethanol prices and the production incentives described in section 1.

Incentives were calculated per NDCC Section 4-14.1-08

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The $3.28 million represents the existing continuing appropriation authorized under NDCC 4-14.1-10.

Name:	John Schneider	**Agency:**	ND Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	04/14/2005

FISCAL NOTE
Requested by Legislative Council
04/14/2005

Amendment to: Reengrossed SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$1,750,000		$400,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1 of this bill has a fiscal impact of $1,350,000.

Note: If the two current facilities were to expand and meet the qualifications described in section 2, they would be "eligible" to collect a maximum incentive up to $1.6 Million per plant per year.

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.*

   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.*

The projected expenditures for the 2007-2009 biennium are based on a 15 million gallon per year expansion for each of the two existing plants, last year's corn and ethanol prices and the production incentives described in section 1.

Incentives were calculated per NDCC Section 4-14.1-08

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The $3.28 million represents the existing continuing appropriation authorized under NDCC 4-14.1-10.

Name:	John Schneider	**Agency:**	ND Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	04/14/2005

FISCAL NOTE

Requested by Legislative Council
03/25/2005

Amendment to: Reengrossed SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$1,750,000		$400,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1 of this bill has a fiscal impact of $1,350,000.

Note: If the two current facilities were to expand and meet the qualifications described in section 2, they would be "eligible" to collect a maximum incentive up to $1.6 Million per plant per year.

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.*

   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.*

The projected expenditures are based on a 15 million gallon per year expansion for each of the two existing plants, last year's corn and ethanol prices and the productionc incentives described in section 1.

Incentives were calculated per NDCC Section 4-14.1-08

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The $3.28 million represents the existing continuing appropriation authorized under NDCC 4-14.1-10.

Name:	John Schneider	**Agency:**	ND Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	03/28/2005

FISCAL NOTE

Requested by Legislative Council
03/07/2005

REVISION

Amendment to: Engrossed SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$400,000		$400,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1: of this bill is an unknown as far as the fiscal effect.

Note: If the two current facilities were to expand and met the qualifications they would be eligible to collect a maximum incentive up to $1.6 Million per plant per year.

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.*

   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.*

The projected expenditures are based on a 15 million gallon per year expansion for each of the two existing plants and on last year's corn and ethanol prices.

Incentives were calculated per NDCC Section 4-14.1-08

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The $3.28 million represents the existing continuing appropriation authorized under NDCC 4-14.1-10.

Name:	John Schneider	**Agency:**	ND Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	03/07/2005

FISCAL NOTE

Requested by Legislative Council
02/17/2005

Amendment to: Engrossed SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$200,000		$200,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1: of this bill is an unknown as far as the fiscal effect.

Note: If the two current facilities were to expand and met the qualifications they would be eligible to collect a maximum incentive up to $1.6 Million per plant per year.

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.*

   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.*

The projected expenditures are based on a 15 million gallon per year expansion and last year's corn and ethanol prices.

Incentives were calculated per NDCC Section 4-14.1-08

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The $3.28 million represents the existing continuing appropriation authorized under NDCC 4-14.1-10.

Name:	John Schneider	**Agency:**	ND Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	02/18/2005

FISCAL NOTE

Requested by Legislative Council
02/16/2005

Amendment to: SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$200,000		$200,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1: of this bill is an unknown as far as the fiscal effect.

Note: If the two current facilities were to expand and met the qualifications they would be eligible to collect a maximum incentive up to $1.6 Million per plant per year.

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.*

   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.*

The projected expenditures are based on a 15 million gallon per year expansion and last year's corn and ethanol prices.

Incentives were calculated per NDCC Section 4-14.1-08

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The $3.28 million represents the existing continuing appropriation authorized under NDCC 4-14.1-10.

Name:	John Schneider	**Agency:**	ND Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	02/16/2005

FISCAL NOTE

Requested by Legislative Council
01/31/2005

REVISION

Bill/Resolution No.: SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$1,800,000		$1,800,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1: Would provide up to $1,800,000 to the two current ethanol facilities operating in the state.

Section 2: of this bill (which wasn't included in State fiscal effect table; 1A) is an unknown as far as the fiscal effect. This section clarifies existing state law, thus, if the two current facilities were to expand and met the qualifications they would be eligible to collect a maximum incentive of 10 cents/gallon up to $3.2Million

Note:
1.) Money in this fund was appropriated as a production incentive for new ethanol production within the state. Section 1 of this bill would take over 50% of the appropriated dollars for existing facilities.
2.) Funds are currently transferred into the ethanol production incentive fund "annually" (the end of the fiscal year) which may not match requests, thus, the fund my be depleted making it impossible to "forward the production incentives to the plant upon receipt of an affidavit ..." as instructed on page 1, line 20-22

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.*

   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.*

Expenditures would be to the two qualifying facilities in the state. One facility would qualify for $1.2 million and one would qualify for $600,000

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	John Schneider	**Agency:**	Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	01/31/2005

FISCAL NOTE

Requested by Legislative Council
01/19/2005

Bill/Resolution No.: SB 2270

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$3,280,000		$3,280,000
Expenditures				$1,800,000		$1,800,000
Appropriations				$3,280,000		$3,280,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 1: Would provide up to $1,800,000 to the two current ethanol facilities operating in the state.

Section 2: of this bill (which wasn't included in State fiscal effect table; 1A) is an unknown as far as the fiscal effect. This section clarifies existing state law, thus, if the two current facilities were to expand and met the qualifications they would be eligible to collect a maximum incentive of 10 cents/gallon up to $3.2Million

Note:
1.) Money in this fund was appropriated as a production incentive for new ethanol production within the state. Section 1 of this bill would take over 50% of the appropriated dollars for existing facilities.
2.) Funds are currently transferred into the ethanol production incentive fund "annually" (the end of the fiscal year) which may not match requests, thus, the fund my be depleted making it impossible to "forward the production incentives to the plant upon receipt of an affidavit ..." as instructed on page 1, line 20-22

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.*

Revenue is from two sources:

- $3,016,000 from 40% of all registration fees on farm vehicles.

- $264,000 from the 1 cent withheld from the agricultural fuel tax refund.

   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.*

Expenditures would be to the two qualifying facilities in the state. One facility would qualify for $1.2 million and one would qualify for $600,000

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	John Schneider	**Agency:**	Dept. of Commerce
Phone Number:	328-5350	**Date Prepared:**	01/25/2005

50198.0302
Title.

Prepared by the Legislative Council staff for Senator Klein
February 2, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

Page 1, line 1, replace "sections 4-14.1-07.1 and" with "section"

Page 1, remove lines 6 through 24

Page 2, remove lines 1 through 5

Page 2, line 9, replace "meets the eligibility criteria established in section 4-14.1-07.1 also" with "was in operation in this state before July 1, 1995,"

Page 2, line 21, remove "4-14.1-07.1,"

Renumber accordingly

Date: 2-8-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2270

Senate **Industry, Business, and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt Amendments (.0302 Klein)

Motion Made By Klein Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		**Senator Fairfield**		X
Senator Klein	X		**Senator Heitkamp**	X	
Senator Krebsbach	X				
Senator Espegard		X			
Senator Nething		X			

Total (Yes) 4 No 3

Absent 0

Floor Assignment

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

50198.0303
Title.

Prepared by the Legislative Council staff for
Senator Espegard
February 2, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

Page 2, line 10, remove "<u>, provided the</u>"

Page 2, remove lines 11 and 12

Page 2, line 13, remove "<u>effective date of this Act</u>"

Renumber accordingly

Date: 2-8-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2270

Senate **Industry, Business, and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Adopt Amendments (Sen. Espegard) .0303

Motion Made By Espegard Seconded By Nething

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein		X	Senator Heitkamp		X
Senator Krebsbach		X			
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment

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

Date: 2-8-05
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2270

Senate **Industry, Business, and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken DPAM -

Motion Made By Nething Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein		X	Senator Heitkamp		X
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Espegard

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

REPORT OF STANDING COMMITTEE

SB 2270: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2270 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section" and remove "and 4-14.1-07.2"

Page 1, remove lines 8 through 24

Page 2, remove lines 1 through 7

Page 2, line 8, replace "4-14.1-07.2" with "4-14.1-07.1"

Page 2, line 9, replace "meets the eligibility criteria established in section 4-14.1-07.1 also" with "was in operation in this state before July 1, 1995,"

Page 2, line 10, remove ", provided the"

Page 2, remove lines 11 and 12

Page 2, line 13, remove "effective date of this Act"

Page 2, line 21, remove ", 4-14.1-07.2"

Renumber accordingly

2005 SENATE APPROPRIATIONS

SB 2270

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2270

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 16, 2005

Tape Number	Side A	Side B	Meter #
1	a		4,250
Committee Clerk Signature			

Minutes:

Chairman Grindberg opened the hearing on SB 2270.

Senator Duaine Espegard discussed SB 2270 indicating it has to do with ethanol plants. The two plants in the state are located at Grafton and Walhalla which have production 11 million gallons of gas and 40 million gallons at Walhalla. The original bill was amended including existing incentives are gone and it now states there will be incentives if the plants individually decide to expand production ten million gallons or fifty million gallons, they would participate in the incentives as though they were new plants, but only on new gallons produced.

Questions were raised about existing plants, production time frame, payments on the old production, fiscal notes on this bill, why amendments are in appropriations, the implications of this bill on new ethanol plants, exact source of dollars and exact amount in incentive fund, concerns about reducing incentives, what happens when demand for money exceeds supply and whether new plants qualify for sales tax exemption..

Sandy was asked to get the exact numbers in the existing account and what is anticipated to be there in the next biennium.

Sandy responded that $3 million per biennium comes into the account and there are two sources of funding, motor vehicle fees on farm trucks and one cents on ag tax refund. At the end of the biennium there will be about $1.5 million left in the account.

John Schneider, Agriculture Utilization Commission, testified as a neutral person on SB 2070. He indicated he had the specific details of what is in the account and how it is collected. He then supplied a summary of this information, with the qualifying statement monies do not match because of the time frames it comes in.

Senator Mathern moved to approve the amendment as proposed, Senator Fischer seconded. No discussion and a voice vote was held. The **motion carried**.

Senator Mathern moved for a do pass as amended; Senator Fischer seconded. There was no further discussion. The **motion carried** with a 10 yes vote, 1 no and 4 absent.

Vice Chairman Grindberg closed the hearing on SB 2070.

50198.0402
Title. 0500

Prepared by the Legislative Council staff for Senator Espegard
February 16, 2005

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2270

Page 1, replace lines 9 and 10 with "<u>If an ethanol plant that was in operation in this state before July 1, 1995, increases its production by the lesser of ten million gallons [37854000 liters] or fifty percent of its production capacity during any twelve-month period beginning on or after the effective date of this Act, that plant is eligible to receive ethanol production incentive payments under section 4-14.1-08 on its increased production.</u>"

Renumber accordingly

Date 2/16/05
Roll Call Vote #: 2270

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB

Senate SENATE APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50198.0402

Action Taken Do Pass as amend

Motion Made By Mathern Seconded By ~~Tallackson~~ Fischer

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG			SENATOR KRAUTER	✓	
VICE CHAIRMAN BOWMAN			SENATOR LINDAAS		
VICE CHAIRMAN GRINDBERG	✓		SENATOR MATHERN	✓	
SENATOR ANDRIST	✓		SENATOR ROBINSON	✓	
SENATOR CHRISTMANN		✓	SEN. TALLACKSON	✓	
SENATOR FISCHER	✓				
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER					
SENATOR THANE	✓				

Total (Yes) 10 No 1

Absent 4

Floor Assignment ~~Tallackson~~ Espegard

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

REPORT OF STANDING COMMITTEE

SB 2270, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). Engrossed SB 2270 was placed on the Sixth order on the calendar.

Page 1, replace lines 9 and 10 with "<u>If an ethanol plant that was in operation in this state before July 1, 1995, increases its production by the lesser of ten million gallons [37854000 liters] or fifty percent of its production capacity during any twelve-month period beginning on or after the effective date of this Act, that plant is eligible to receive ethanol production incentive payments under section 4-14.1-08 on its increased production.</u>"

Renumber accordingly

2005 HOUSE FINANCE AND TAXATION

SB 2270

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2270**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 7, 2005**

Tape Number	Side A	Side B	Meter #
1	X		36.9
Committee Clerk Signature	Janice Stein		

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

SEN. DUANE ESPEGARD, DIST. 43, GRAND FORKS Introduced the bill. This bill says that the two existing plants located in the state of North Dakota, the one in Grafton and the one in Walhalla, if they should increase their production, ten million gallons or fifty percent of their existing production, that they would be entitled to the same production incentive as a new production plant. It is intended to encourage the existing plants to increase the production of ethanol. It is a bill about fairness, and increasing ethanol in the state.

SEN. TOM TRENBEATH, DIST. 10 Testified in support of the bill as co-sponsor of the bill. He stated he did not know whether Walhalla would increase their production to the point where this bill would kick in. Gave a little background as to how the bill was introduced.

REP. DROVDAL Can you tell us the approximate gallons of production of the ethanol plants in existance right now?

SEN. TRENBEATH The chief owner of one of them is in the room, and he will be able to tell you that. For Walhalla, I believe it is about forty million gallons. To equate that, it represents about forty semi loads of corn per day.

REP. GIL HERBEL, DIST. 16, GRAFTON Testified in support of the bill. Submitted a handout from an interium committee giving history of the ethanol industry in the past. He asked the committee to amend the bill back into the original form. He referred to the handout presented to committee members. He stated they were asking the legislature to uphold the committment they have made to the industry. It is a huge impact to the agricultural industry of North Dakota. With gasoline going to the highest price we have ever paid before, ethanol will certainly become a viable industry. It makes no sense to provide incentives for new plants and not provide opportunities for those that are in existence.

REP. GRANDE The incentives have been in place for about ten years?

REP. HERBEL Yes

REP. GRANDE So we are looking at approximately two more years?

REP. HERBEL I think it said twelve years from the time the five year committment was made. If you go back to 1995, twelve years added onto that would be 2007.

REP. GRANDE In the handout you presented, it says after December 31, 2009.

REP. HERBEL I guess that would be open for debate.

REP. DROVDAL TO SEN. ESPEGARD Looking at the bill in its original form, and I got this little amendment on it.

SEN. ESPEGARD When the bill ended up, the entire section with regard to existing subsidy payments to existing plants, was taken out.

REP. JOYCE KINGSBURY, DIST. 16 Testified in support of the bill as a co-sponsor of the bill. Testified in favor to amend the bill to include the incentives. Ethanol is a viable industry to Grafton and North Dakota. The jobs are important to their area.

SEN. HARVEY TALLACKSON, DIST. 16, GRAFTON Testified in support of the bill. Gave a little history of the ethanol industry. The plants were built by local investors who spent tons of money to develop a pioneer ethanol plant. He stated if you build a new plant, you can have it in the black within the second year because of the state of the art equipment, but a pioneer plant must continually be brought up to par. Gave a little history of the funding back to the late 80's.

REP. DAVE MONSON, DIST. 10 Testified in support of the bill. He stated he was in the district of the Walhalla plant and the Grafton plant isn't that far away. The plants have both been shut down over the years, and it is a huge boom to their economy when the plants are running. The farmers are able to raise more corn now, and do receive benefits from those plants.

REP. GRANDE We only have one fiscal note, I assume it goes with the reengrossed bill.

REP. MONSON Could not answer.

REP. BELTER The original fiscal note was expenditures of 1.8 appropriations to 3.28. The new one is expenditures of $200,000.

HAROLD NEUMAN, GENERAL PARTNER AND MAJORITY OWNER OF ALCHEM PLANT, GRAFTON, ND Testified in support of the bill. See attached written testimony together with a chart showing the net income with state funds and the net income without state funds.

REP. BELTER Currently, what is considered to be the average cost of producing ethanol?

HAROLD NEUMAN That is a question that is extremely hard to answer. I don't think you can say, today it is $1.30 tomorrow it is $1.80. It is such a volatile issue, you have three to four items that either kill you or make you. First it is the cost of corn, of natural gas, the price we get for our VDG, which is a by-product, about $80 per ton, which goes for cattle feeding, and then the price of ethanol.

REP. BELTER Where is your VDG being shipped to?

HAROLD NEUMAN Most of ours goes by rail to Oregon and Washington, for dairy herds. It is good for beef cattle too.

REP. NICHOLAS You said the current price right now is only $1.20, but it has been up to $1.90, when was it $1.90, how recently?

HAROLD NEUMAN In November.

REP. NICHOLAS Why has it dropped off 70%?

HAROLD NEUMAN I wish I knew, but fuel prices went up ten cents Friday, it keeps jumping around, I don't know who causes the problem. It seems to be about a lead of about ten days, for the price of crude, which is about a third of the price of gasoline, I am told, and then it starts to work its way up. I think those people in the Persian Gulf with towels on their head control it.

REP. CONRAD What is your capacity or production?

HAROLD NEUMAN We make eleven million gallons a year.

REP. DROVDAL You are making eleven million, do you have a capacity above that? What would it take to expand?

HAROLD NEUMAN That would depend on whether we could get some used equipment. If you are going to expand that plant with new equipment, you are just about better off to build a new one along side of it. For a fifty million gallon plant, boilers for coal are about twenty one million. For natural gas you don't have a whole lot of initial cost, but you don't have inservice either. I can relate to the problems at Grafton, but we got shut off 43 days a year ago in the winter. We have a real problem in Central North Dakota to get any type of industry that requires heat.

REP. DROVDAL Are you currently, producing at full capacity and if not, what is that capacity?

HAROLD NEUMAN We are currently, full capacity. We produce 2.8 gallons per bushel, that is national average.

REP. NICHOLAS Is MDU supplying your gas up there?

HAROLD NEUMAN Rainbow

REP. BELTER Where is your ethanol market, is it fairly local?

HAROLD NEUMAN About forty percent of ours goes to Minot, and the balance to Grand Forks and Fargo.

SEN. ESPEGARD Added more information. He stated it depends so much on the corn price, which is a major input. It also depends upon fuel. If you can take a look back, the corn costs were high last year, they were much higher than you anticipated, because of what the corn prices were this fall, when an ethanol plant is in production, it buys its corn ahead of time. When buying the corn this past year, corn was around $3.00 per bushel in the month of June. Mr. Neuman mentioned in his testimony, that his gas bill went up in the plant to 1.8 million dollars. That is right off the bottom line. Rack prices as they follow toward gasoline prices, they have fallen over the years, from time to time, I don't believe they are tied to the fuel price as much as to the demand. What does it cost to increase the plant's production? This is a very expensive business. One of the major problems in this past year, was the price of fuel. The Neuman family spent ten million dollars. The committment is there, and we believe that ethanol will be a viable product in this country. What does it cost to increase this plant up to what Mr. Neuman would like it to do, I can tell you that he would invest another fifteen million dollars in that plant, then he would have a thirty million coal fired plant. This is not a small man's game. Without the pioneers of ADM, Mr. Neuman and his family, there would not be an ethanol industry in this state.

REP. NICHOLAS As a former banker and financier of many large projects, my question would be, when you say three dollar corn was the committment price, what is the ability of this plant, or any of these plants to lay off their end product, is there a market there?

SEN. ESPEGARD In the past, because it is a relatively new market, we had opportunity to lay off the price of ethanol and contract it, if you will, for a number of gallons. That has never been to the advantage of the plant. When the prices are going up, that's when they want to buy some extra. It isn't like a normal product where you can see a trend of three dollar corn, this plant as ADM, has floated on and sold it as the demand comes. You could buy your corn, last year when this plant bought its corn for December, there was a shortage in the country. What turned out, there turned out to be eleven billion bushels of corn and the corn prices dropped. You have to buy the corn at that particular time.

REP. BELTER Is the Walhalla plant natural gas fired?

SEN. ESPEGARD I am not familiar with that, it seems to me they are coal fired.

JOHN SCHNEIDER, APOC Testified in a neutral position. When asked to prepare the fiscal note, we did not have all of the figures. How the original fiscal note with the original bill, was if we put the last biennium back in place, that is the 1.8 million dollars. The difference, the current fiscal note you have in front of you, says it is $200,000, there was a mistake, in our office when that was put out. That only took into account if Alchem expanded their plant, not taking into account if ADM expanded their plant. If ADM expanded their plant, it would add another $400,000 to $600,000 a biennium. It was based on a counter cyclical plan.

REP. BELTER The new fiscal note should be

JOHN SCHNEIDER An additional $400,000 to $600,000.

With no further testimony, the hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2270**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 14, 2005**

Tape Number	Side A	Side B	Meter #
1	X		0.5
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. HEADLAND Presented amendments to committee members. The amendment would put the bill in its original form the way it was introduced into the Senate. It would continue the subsidies for the ethanol plant currently in production today.

REP. BELTER Allowed Harold Newman, plant owner, to share his perspective of what the incentives were from 1995 to date. He understands the expiration date would end in 2007 for the committment made for incentives.

REP. BELTER Stated he would like to leave the bill in the form that it came from the Senate and refer it to appropriations.

SEN. ESPEGARD Clarified the form the bill was in at the Senate level. At the Senate level there were misunderstandings as to what the agreement was. That was what was taken out, that included the existing plants. Today what you are hearing, is the committment made at the time when Mr. Neuman and his family took over the plant, and the committment they made to it. You can tell by the information I gave you later, that there wouldn't have been an ethanol industry in this state, without the Neuman family committment, and without the perceived committment they had from this legislature. Since the time of the committment, they have invested right around $800,000 a year in capital, then because of the last thing that happened, natural gas price went up to double what it was, they have invested another ten million dollars to keep it going. The committment is there, and what is being asked here, is for them to honor the committment they made. Mr. Neuman doesn't expect the committment to be any longer then what he was told.

REP. DROVDAL Stated he didn't read an ending in the amendment.

REP. DROVDAL Made a motion to add an expiration date to Rep. Headland's amendment of June 30, 2007, on both A & B under number 1.

Motion carried by a roll call vote. 8 yes 5 no 1 absent

REP. HEADLAND Made a motion for a **do pass as amended.**

REP. WEILER Second the motion. **MOTION CARRIED.**

13 YES 0 NO 1 ABSENT

REP. HEADLAND Was given the floor assignment.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2270**

House Finance and Taxation Committee

❑ Conference Committee

Hearing Date **March 23, 2005**

Tape Number	Side A	Side B	Meter #
1	X		1.9
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. WEILER Made a motion to reconsider the action by which the bill was passed out of committee.

REP. IVERSON Second the motion. Motion carried by voice vote.

REP. BELTER Presented amendments to committee members. Under the old bill, this would have provided $600,000 to the Grafton plant for two years, and $300,000 a year to the Walhalla plant, these amendments will take the total payment that each plant can receive down to $900,000 for Grafton and $450,000 for the Walhalla plant. We are giving them 3/4ths of what we sent out of this committee. After 2005-2007 biennium, they will receive no further incentives.

REP. HEADLAND Made a motion for a **do pass as amended.**

REP. IVERSON Second the motion. **Motion carried. 12 yes 0 no 2 absent**

Date: 3-14-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2240

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Adopt amends Headland 50198.0501

Motion Made By Rep. Headland Seconded By Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN		✓			
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL		✓			
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE		✓			
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	A				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE		✓			
WRANGHAM, DWIGHT		✓			

Total (Yes) 8 No 5

Absent 1

Floor Assignment ______

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

Date: 3-14-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2270

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50198.0502

Action Taken Do pass as amended - be Rereferred to Approp

Motion Made By ______ Seconded By ______

Reconsidered

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	A				
OWENS, MARK	✓				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Headland

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

Date: 3-23-05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2270

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50198.0503

Action Taken Do Pass as Amended

Motion Made By Rep. Headland Seconded By Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI	✓				
FROELICH, ROD	✓				
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	A				
SCHMIDT, ARLO	✓				
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	A				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Headland

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

REPORT OF STANDING COMMITTEE

SB 2270, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Reengrossed SB 2270 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "4-14.1-07.1" insert "and 4-14.1-07.2"

Page 1, line 2, replace "section" with "sections 4-14.1-08 and"

Page 1, after line 7, insert:

"4-14.1-07.1. Ethanol plant production incentives - Report to budget section.

1. a. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to nine hundred thousand dollars in production incentives from the state during the 2005-07 biennium and may receive no production incentives under this section after the 2005-07 biennium.

   b. An ethanol plant that was in operation before July 1, 1995, and which produced fifteen million gallons [56781000 liters] or more in the previous fiscal year is eligible to receive up to four hundred fifty thousand dollars in production incentives from the state during the 2005-07 biennium and may receive no production incentives under this section after the 2005-07 biennium.

2. The agricultural products utilization commission shall determine the amount of production incentives to which a plant is entitled under this section by multiplying the number of gallons of ethanol produced by the plant and marketed to a distributor or wholesaler by forty cents. The commission shall forward the production incentives to the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers.

3. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative council a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.

SECTION 2. Section 4-14.1-07.2 of the North Dakota Century Code is created and enacted as follows:"

Page 1, line 8, replace "4-14.1-07.1" with "4-14.1-07.2"

Page 1, after line 13, insert:

"**SECTION 3. AMENDMENT.** Section 4-14.1-08 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-08. Ethanol production incentive - Calculation - Payment. The agricultural products utilization commission shall provide quarterly to each eligible facility a production incentive based on the average North Dakota price per bushel of corn received by farmers during the quarter, as established by the North Dakota agricultural statistics service and the average North Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by ~~the American coalition for ethanol~~ AXXIS petroleum. The amount payable as a production incentive must be calculated by including the sum arrived at under subsection 1 with the sum arrived at under subsection 2.

1. a. If the average quarterly price per bushel of corn is above one dollar and eighty cents, for each one cent by which the quarterly price is above one dollar and eighty cents, the agricultural products utilization commission shall add to the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

   b. If the average quarterly price per bushel of corn is one dollar and eighty cents, the agricultural products utilization commission shall add zero to any amount payable under this section.

   c. If the average quarterly price per bushel of corn is below one dollar and eighty cents, for each one cent by which the quarterly price is below one dollar and eighty cents, the agricultural products utilization commission shall subtract from the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

2. a. If the average quarterly rack price per gallon of ethanol is above one dollar and thirty cents, for each one cent by which the average quarterly rack price is above one dollar and thirty cents, the agricultural products utilization commission shall subtract from the amount payable under this section, two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

   b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty cents, the agricultural products utilization commission shall subtract zero from any amount payable under this section.

   c. If the average quarterly rack price per gallon of ethanol is below one dollar and thirty cents, for each one cent by which the average quarterly rack price is below one dollar and thirty cents, the agricultural products utilization commission shall add to the amount payable under this section two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter."

Page 1, line 21, after "4-14.1-07.1" insert ", 4-14.1-07.2"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

SB 2270

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2270
Ethanol Production Incentive Fund

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 28, 2005

Tape Number	Side A	Side B	Meter #
1	X		#5.1 - #25.5
Committee Clerk Signature Chris Alexander			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on SB2270.

Rep Belter explained that originally the bill had $600,000 per year to the Grafton plant and $300,000 for the Walhalla plant, plus there was one more payment due in the next biennium to each of these. What these amendments do is make this the final payments to the old plants and instead of the $1.2 million to Grafton, it would be $900,000, and instead of the $600,000 to Walhalla it would be $450,000. This also has language on lines 16-18 that there would be no more payments to old production plants after this biennium. The bill does allow for the counter cyclical concept developed in the last session for any new plants and if the old plants expand and then it would be eligible for only their new production.

Rep. Ken Svedjan, Chairman clarified that now the bill stands at $900,000 for Grafton and $450,000 for Walhalla for the biennium and the counter cyclical concept is still in place for new plants and any new production from an expansion of an old plant.

Rep. Tom Brusegaard asked if Grafton and Walhalla would receive anything if these amendments were stripped from the bill

Rep Belter answered that they would receive nothing.

Rep. Chet Pollert asked if Grafton and Walhalla expanded would they only be eligible for the counter cyclical payments on the production of the expansion or would their whole plant be eligible.

Rep Belter answered that they would receive no counter cyclical on old production, but only on the new production from the expansion.

Rep. Ole Aarsvold asked if this expansion we're talking about was expanded production or physical expansion.

Rep Belter answered that it would be expansion on their actual gallonage production. Section one of the bill talks about an ethanol plant with fewer than 15 million gallons. This is how the code distinguishes the plant's production.

Rep. Ken Svedjan, Chairman asked what the source was for the $1.35 million

Rep Belter answered that it came from the ethanol incentive fund which receives 40% of the license fees on farm vehicles and the non refundable portion of the farmer gas tax.

Rep. Ken Svedjan, Chairman asked if these were all special funds

Rep Belter answered that this was correct and that there are no new funding sources. These are the sources we have been using for a number of sessions.

Rep. Francis J. Wald asked if the fiscal note represents adding on capacity or increased production

Rep Belter explained that these plants would have to invest in additional production capacity in order to be eligible for this counter cyclical portion.

Rep. Ole Aarsvold asked if these plants would be eligible if the invested in new technological change like a new corn variety that would yield far more production than what we have currently or a new enzyme that would increase production. (meter Tape #1, side A, #12.7)

Rep Belter answered that it was his understanding that it would take a physical expansion. The intent is that these plants need to invest money to expand their plants above existing capacity.

Rep. Francis J. Wald asked if there was anything in this bill that would help the 2 new plants coming in Richardton or Washburn.

Rep Belter answered that these plants would be eligible for the counter cyclical payments.

Rep. Bob Skarphol asked where this language is in the bill regarding the expansion of the plants. Is this in existing law?

Rep. Eliot Glassheim answered that this language can be found in the second engrossment of the bill, version #0500.

Rep. Jeff Delzer commented that the two new plants would be eligible for the counter cyclical whether we passed this bill or not.

Rep Belter answered that this was correct.

Rep. Jeff Delzer asked if any other additions were made to the bill beyond the addition of Grafton and Walhalla.

Rep Belter explained that the only other difference is that they now use AXXIS petroleum instead of the American Coalition of Ethanol to compile the price of ethanol.

Rep. Jeff Delzer asked if they changed the $1.6 million per year that was in the bill last session.

Rep Belter answered no. The maximum subsidy that can be paid out for the counter cyclical program is still $1.6 million for a total to all the plants No plant can collect more than $10 million.

Rep. Jeff Delzer asked what would be left in the Ethanol Incentive Fund after making these payments to Grafton and Walhalla

Rep. Joe Kroeber answered that the carry over from this fund is $1.2 million with a total amount of $5 million that goes in this fund

Rep. Ken Svedjan, Chairman asked legislative council to check on these figures

Rep Belter commented that with the current oil prices and the time lag of the construction. process, it is highly unlikely that this fund will be tapped into in the next biennium, beyond these payments to Grafton and Walhalla. (meter Tape #1, side A, #18.0)

Rep. Jeff Delzer asked if there is a top cap on this fund

Ms Sandy Paulson from OMB answered no

Mr. Don Wolf from legislative council answered that there would be $1.2 million in the Ethanol Incentive Fund at the end of this biennium.

Ms Sandy Paulson explained that $3.2 million is expected to flow into this fund in the next biennium.

Rep. Ken Svedjan, Chairman asked if this $1.355 would come out of this expected amount **Ms Sandy Paulson** answered that the fund would have the $3.2 million and $1.2 million carry over so there would be a total of $4.4. Then this $1.355 amount needed for payments would come out of this total.

Rep. Jeff Delzer asked what went into the fund this biennium

Ms Sandy Paulson answered that she was unsure of the exact figure but that it was close to the $3.2 million projected for the next biennium

Rep. Jeff Delzer asked if we paid counter cyclical payments in the current biennium

Ms Sandy Paulson answered yes, we are still making payments to Grafton and Walhalla.

Rep. Jeff Delzer explained that the original intent of this from the last session was to put these plants on the counter cyclical for two years and we paid them a set amount the last session, and that was supposed to be the last payment, though no language of this was ever put in code.

Rep. Ken Svedjan, Chairman asked what the state's obligation was to cover the payments to these plants in the next 2 years

Rep Belter explained that when the plant in Grafton was bought in 1997 there was an understanding that they would receive these payments for ten years. There is some debate about this but my personal understanding is that this is true. This would mean that there would be yet another payment in the next biennium. This bill would do away with the next biennium payment and only pays three-fourths of this biennium's payment, which is a good compromise.

Rep. Jeff Delzer asked if these plants would still be in the counter cyclical if we didn't change anything.

Rep Belter answered that he didn't think these plants were presently in the counter cyclical program. He thought that they were just involved in a payment schedule.

Ms Sandy Paulson answered that these plants were not currently eligible for those payments.

Rep. Jeff Delzer asked if we were paying the plants counter cyclical payments on top of the regular payment schedule

Ms Sandy Paulson answered no. The only payments made to these plants are the regular payment schedule.

Rep. Jeff Delzer asked how much these payments were

Rep Belter answered that Grafton received $600,000 per year and Walhalla received $300,000 per year. $1.8 million total.

Rep. Jeff Delzer commented that the original bill puts them into the counter cyclical if they expand their plants

Rep Belter explains that this would be true if they have a plant expansion.

Rep. Ken Svedjan, Chairman commented that otherwise the payment is three-fourths of what went out this biennium and this is the final payment for old plants.

Rep Belter answered that this was correct. This bill would give us language in code that says this payment would be the final payment made to these plants.

Rep. Ken Svedjan, Chairman explained that the committee will put this bill aside until we get the current fiscal note and whatever else we need to take final action. Rep Svedjan adjourned the meeting.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2270
Ethanol Plant Production Incentives

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 31, 2005

Tape Number	Side A	Side B	Meter #
1	X		#0 - #9.3
Committee Clerk Signature Chris Alexander			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on SB2270, and clarified that the original bill had $600,000 in it for the Grafton Plant and $300,000 for the Wahalla plant. These figures are per year. The Finance and Tax committee has changed this to $900,000 for Grafton and $450,000 for Wahalla, but these would be the last payments. This bill still allows for the counter cyclical for new production or new plants.

Rep Belter explained that the funding source included portions of the farm gas tax and 40% of the fees on farm vehicles. This is a reasonable compromise position as it is one half of what these plants would have gotten otherwise.

Rep. Pam Gulleson asked for an estimate of the new plant production for the counter cyclical projections.

Rep Belter answered there is an appropriation of $3.82 million that is the maximum to be paid out for these incentives.

Rep. David Monson asked where in the bill it is now stated that these will be the final payments to these plants.

Rep. Ken Svedjan, Chairman explained that subsection 1a in the amendment clearly states that this will be the last payment..

Rep. Mike Timm, Vice Chairman moved a Do Pass motion to SB2270.

Rep. James Kerzman seconded

Rep. David Monson commented that he was disappointed that this compromise with these plants had to happen and that the state is now paying only ¾ of what they had originally agreed to pay these plants.

Rep. Mike Timm, Vice Chairman commented that the agreement that is being discussed was never in law.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass motion for SB2270. Motion carried with a vote of 19 yeas, 4 neas and 0 absences. Rep Headland will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on SB2270.

Date: March 31, 2005

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2270

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken **DO PASS**

Motion Made By **Rep Timm** Seconded By **Rep Kerzman**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol		X
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson		X
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes 19 No 4

Absent 0

Floor Assignment **Rep Headland**

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

REPORT OF STANDING COMMITTEE

SB 2270, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (19 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2270 was placed on the Fourteenth order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

SB 2270

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2270

Senate Industry, Business and Labor Committee

☒ Conference Committee

Hearing Date 4-11-05

Tape Number	Side A	Side B	Meter #
2	xxx		709
Committee Clerk Signature	Lisa Van Berkom		

Minutes:

Senator Klein called the conference committee to order. Members present were:

Senator Klein, Senator Mutch, Senator Heitkamp, Rep. Belter, Rep. Headland, Rep. Kelsh.

Senator Klein: The bill looks different than it did when it left us, and I will let the House explain it.

Rep. Belter: The main difference that I see was that when the bill came from the House, I guess you had taken out the payments to the existing plants and it was our feelings that there was a commitment made to these plants and so ten we amended it back in.

Senator Klein: And it continues to pay on any additional production, if those facilities would add?

Rep. Belter: Any new production would fall under the counter cyclical payment.

Rep. Headland: I have a printed copy showing there was legislative intent to fund them for an extended period. Then I am distributing a spreadsheet that shows that the money is there to fund them.

Senator Heitkamp: (to Rep. Headland) If you go by this document, they are going to be funded for a couple more sessions?

Rep. Belter: Actually it would be this upcoming biennium and the first half of the next biennium. However, the language that we put in, ends it at the end of the next biennium. After the 2005-2007 biennium, it will end.

Senator Klein: At our next meeting, we will look at any amendments you are thinking of.

The meeting was called to recess.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2270

Senate Industry, Business and Labor Committee

☒ Conference Committee

Hearing Date 4-12-05

Tape Number	Side A	Side B	Meter #
1	xxx		1,677
Committee Clerk Signature Lisa VanBerkom			

Minutes: Senator Klein called the conference committee to order. Members present were: Senator Klein, Senator Mutch, Senator Heitkamp, Rep. Belter, Rep. Headland, Rep. Kelsh.

Senator Klein: Yesterday, Senator Mutch had some questions about the issue with the access. I asked Lance Gaebe to bring some information.

Lance Gaebe, Policy advisor to the Governor, spoke to clarify some information. See attached.

Senator Klein: What the House has passed, is that any new additional production would be under these rules, however, the additional language is that there be 900K and 450K paid to the existing plants over the next biennium.

Senator Heitkamp: That was agreed upon to be it?

Lance: Yes.

Senator Mutch: This formula would have no effect on the existing plants?

Lance: Only for new capacity.

Senator Klein: What kind of revenue will this leave in the incentive fund?

Lance: That is in the information I gave you. The two sources of revenue for the ethanol production incentives fund are 40% of farm vehicle registrations and one cent of the farm gas tax refund.

Senator Klein: The way things are currently, and if two plants come on line, and they are both tapping the fund, we will have a slow decline in the fund balance, it would be the year 2020 before it would run out of money.

Lance: I could get you the exact time.

Senator Klein: We will be paying the new plants the full amount?

Lance: Yes.

Senator Mutch moved to adopt the amendment. Senator Heitkamp seconded.

Both stated only making motions for the purpose of discussion.

Senator Heitkamp: I would like to bounce this amendment around and see how people feel about it.

Senator Mutch: In an instance, I would sooner invoke the amendments and change the words from "may" to "shall" on stopping payment to the existing plants.

Senator Klein: Rep. Headland, could you get an amendment drafted to correct that word?

Senator Mutch: Then it's more definite that the payments will stop. I have listened to this for years and years.

Rep. Headland: Just to respond, I know Senator Heitkamp would like to float these amendments around, but I'm going to reject these amendments because I feel that we have already compromised and I feel that the way we passed it out is fair. I am going to stay there.

Rep. Belter: I do think that the bill as we sent it to the House is a good compromise. It shows our support to the ethanol industry that has been here and been through some rough times.

Roll Call Vote on amendment 50198.0504. : 2 yes. 4 no. 0 absent.

Motion failed.

Senator Mutch moved to adopt the wording "shall" to replace "may".

Senator Heitkamp seconded. Roll Call Vote: 6 yes. 0 no. 0 absent.

Senator Heitkamp moved that the Senate accede to the House amendments and further amend the bill.

Rep. Headland seconded.

Roll Call Vote: 6 yes. 0 no. 0 absent.

Senator Klein will carry the bill to the Senate

Date: 4-12-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2270

Senate ~~Human Services~~ IBL Committee

[X] Check here for Conference Committee

Legislative Council Amendment Number

Action Taken 50198.0504

Motion Made By Mutch Seconded By Heitkamp

Senators	Yes	No	Representatives	Yes	No
Chairman Klein	X		Rep. Belter		X
Sen. Mutch	X		Rep. Headland		X
Sen. Heitkamp		X	Rep. Kelsh		X

Total (Yes) 2 No 4

Absent motion failed

Floor Assignment

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

Adopted by the Conference Committee
April 12, 2005

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2270

That the House recede from its amendments as printed on pages 1306 ~~and~~ - 1307 8 of the House Journal and pages 1285 and 1286 of the Senate Journal and that Reengrossed Senate Bill No. 2270 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "4-14.1-07.1" insert "and 4-14.1-07.2"

Page 1, line 2, replace "section" with "sections 4-14.1-08 and"

Page 1, after line 7, insert:

"**4-14.1-07.1. Ethanol plant production incentives - Report to budget section.**

1. a. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to nine hundred thousand dollars in production incentives from the state during the 2005-07 MAY ~~biennium and sha~~ll receive no production incentives under this section after the 2005-07 biennium.

   b. An ethanol plant that was in operation before July 1, 1995, and which produced fifteen million gallons [56781000 liters] or more in the previous fiscal year is eligible to receive up to four hundred fifty thousand dollars in production incentives from the state during the 2005-07 biennium and ~~shall receive no production incentives under~~ may this section after the 2005-07 biennium.

2. The agricultural products utilization commission shall determine the amount of production incentives to which a plant is entitled under this section by multiplying the number of gallons of ethanol produced by the plant and marketed to a distributor or wholesaler by forty cents. The commission shall forward the production incentives to the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers.

3. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative council a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.

SECTION 2. Section 4-14.1-07.2 of the North Dakota Century Code is created and enacted as follows:"

Page 1, line 8, replace "**4-14.1-07.1**" with "**4-14.1-07.2**"

Page 1, after line 13, insert:

"**SECTION 3. AMENDMENT.** Section 4-14.1-08 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-08. Ethanol production incentive - Calculation - Payment. The agricultural products utilization commission shall provide quarterly to each eligible facility a production incentive based on the average North Dakota price per bushel of corn received by farmers during the quarter, as established by the North Dakota agricultural statistics service and the average North Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by ~~the American coalition for ethanol~~ AXXIS petroleum. The amount payable as a production incentive must be calculated by including the sum arrived at under subsection 1 with the sum arrived at under subsection 2.

1. a. If the average quarterly price per bushel of corn is above one dollar and eighty cents, for each one cent by which the quarterly price is above one dollar and eighty cents, the agricultural products utilization commission shall add to the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

   b. If the average quarterly price per bushel of corn is one dollar and eighty cents, the agricultural products utilization commission shall add zero to any amount payable under this section.

   c. If the average quarterly price per bushel of corn is below one dollar and eighty cents, for each one cent by which the quarterly price is below one dollar and eighty cents, the agricultural products utilization commission shall subtract from the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

2. a. If the average quarterly rack price per gallon of ethanol is above one dollar and thirty cents, for each one cent by which the average quarterly rack price is above one dollar and thirty cents, the agricultural products utilization commission shall subtract from the amount payable under this section, two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

   b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty cents, the agricultural products utilization commission shall subtract zero from any amount payable under this section.

   c. If the average quarterly rack price per gallon of ethanol is below one dollar and thirty cents, for each one cent by which the average quarterly rack price is below one dollar and thirty cents, the agricultural products utilization commission shall add to the amount payable under this section two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter."

Page 1, line 21, after "4-14.1-07.1" insert ", 4-14.1-07.2"

Renumber accordingly

Date: 4-12-05

Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2270

Senate ~~(Human Services)~~ IBL/ Fin. + Tax (House) Committee

[X] Check here for Conference Committee

Legislative Council Amendment Number

Action Taken change "may to shall"

Motion Made By Mutch Seconded By Heitkamp

Senators	Yes	No	Representatives	Yes	No
Chairman Klein	X		Rep. Belter	X	
Sen. Mutch	X		Rep. Headland	X	
Sen. Heitkamp	X		Rep. Kelsh	X	

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) 2270 (, as (re)engrossed):

Your Conference Committee

For the Senate:	Attend	Vote	For the House:	Attend	Vote
Chair Klein	P P	X	Rep. Belter	P P	X
Sen. Mutch	P P	X	Rep. Headland	P P	X
Sen. Heitkamp	P P	X	Rep. Kelsh	P P	X

☐ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/H726 S723/H725
the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

☐ and place _________ on the Seventh order.
727

☒ , adopt (further) amendments as follows, and place
2270 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged and a new committee be appointed. 690/515

((Re)Engrossed) _________ was placed on the Seventh order of business on the calendar.

DATE: ___/___/___

CARRIER: Klein / Headland

LC NO. _________ . _______ of amendment

LC NO. _________ . _______ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2270, as reengrossed: Your conference committee (Sens. Klein, Mutch, Heitkamp and Reps. Belter, Headland, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1285-1286, adopt amendments as follows, and place SB 2270 on the Seventh order:

That the House recede from its amendments as printed on pages 1285 and 1286 of the Senate Journal and pages 1306-1308 of the House Journal and that Reengrossed Senate Bill No. 2270 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "4-14.1-07.1" insert "and 4-14.1-07.2"

Page 1, line 2, replace "section" with "sections 4-14.1-08 and"

Page 1, after line 7, insert:

"<u>4-14.1-07.1. Ethanol plant production incentives - Report to budget section.</u>

<u>1. a. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to nine hundred thousand dollars in production incentives from the state during the 2005-07 biennium and may receive no production incentives under this section after the 2005-07 biennium.</u>

<u>b. An ethanol plant that was in operation before July 1, 1995, and which produced fifteen million gallons [56781000 liters] or more in the previous fiscal year is eligible to receive up to four hundred fifty thousand dollars in production incentives from the state during the 2005-07 biennium and may receive no production incentives under this section after the 2005-07 biennium.</u>

<u>2. The agricultural products utilization commission shall determine the amount of production incentives to which a plant is entitled under this section by multiplying the number of gallons of ethanol produced by the plant and marketed to a distributor or wholesaler by forty cents. The commission shall forward the production incentives to the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers.</u>

<u>3. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative council a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.</u>

SECTION 2. Section 4-14.1-07.2 of the North Dakota Century Code is created and enacted as follows:"

Page 1, line 8, replace "<u>4-14.1-07.1</u>" with "<u>4-14.1-07.2</u>"

Page 1, after line 13, insert:

"**SECTION 3. AMENDMENT.** Section 4-14.1-08 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-08. Ethanol production incentive - Calculation - Payment. The agricultural products utilization commission shall provide quarterly to each eligible facility a production incentive based on the average North Dakota price per bushel of corn received by farmers during the quarter, as established by the North Dakota agricultural statistics service and the average North Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by~~the American coalition for ethanol~~ AXXIS petroleum. The amount payable as a production incentive must be calculated by including the sum arrived at under subsection 1 with the sum arrived at under subsection 2.

1. a. If the average quarterly price per bushel of corn is above one dollar and eighty cents, for each one cent by which the quarterly price is above one dollar and eighty cents, the agricultural products utilization commission shall add to the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

   b. If the average quarterly price per bushel of corn is one dollar and eighty cents, the agricultural products utilization commission shall add zero to any amount payable under this section.

   c. If the average quarterly price per bushel of corn is below one dollar and eighty cents, for each one cent by which the quarterly price is below one dollar and eighty cents, the agricultural products utilization commission shall subtract from the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

2. a. If the average quarterly rack price per gallon of ethanol is above one dollar and thirty cents, for each one cent by which the average quarterly rack price is above one dollar and thirty cents, the agricultural products utilization commission shall subtract from the amount payable under this section, two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

   b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty cents, the agricultural products utilization commission shall subtract zero from any amount payable under this section.

   c. If the average quarterly rack price per gallon of ethanol is below one dollar and thirty cents, for each one cent by which the average quarterly rack price is below one dollar and thirty cents, the agricultural products utilization commission shall add to the amount payable under this section two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter."

Page 1, line 21, after "4-14.1-07.1" insert ", 4-14.1-07.2"

Renumber accordingly

Reengrossed SB 2270 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2270

Testimony in Support of
Senate Bill No. 2270
Senate Industry Business and Labor Committee
February 2, 2005

Chairman Mutch and Senate Industry Business and Labor Committee members, my name is Todd D. Kranda. I am an attorney with the Kelsch Law Firm in Mandan and I appear before you today as a lobbyist on behalf of Alchem Ltd. Alchem is located near Grafton and is one of two existing and operating ethanol plants in North Dakota. Mr. Harold Newman, the owner and operator of Alchem, is unavailable today and has asked that I appear and express Alchem's support for SB 2270.

Prior to the changes in the 2003 Legislative Session, the original funding mechanism for the ethanol production incentive payment program generated in excess of $2.575M each biennium from the agriculture related gas tax refund requests and the one year extension of vehicle age categories of the registration fee.

As indicated there are presently two ethanol production plants operating in North Dakota. The Alchem plant in Grafton and the ADM plant in Walhalla. For the 2003-2005 biennium, SB 2222 provided Alchem with up to $1.2M ($600K/year) and ADM with up to $.6M ($300K/year) under the ethanol production incentive payment provisions.

The Alchem plant in Grafton is a small ethanol production facility which currently has a production capacity of less than fifteen million gallons of ethanol. Alchem employs 45-50 individuals. Alchem produces approximately 10M gallons of ethanol from 4M bushel of corn. On average, 1 bushel of corn produces approximately 2.69 gallons of ethanol.

Previously, Governor Hoeven announced a goal to increase North Dakota's consumption of renewable fuels such as ethanol to a 50% level by 2008. The surrounding states currently have higher ethanol use including Minnesota which has a 100% consumption level. Also, because of the EPA and the problems created from MTBE's, ethanol is being promoted and used for oxygenated fuel which is a clean fuel to address air quality concerns.

Ethanol blended fuels reduce vehicle emissions of carbon dioxide, methane and other gases that contribute to air pollution and global warming. Using renewable energy sources such as ethanol will help reduce our reliance on other forms of energy. Given the energy issues that exist in the world today, the promotion and support of ethanol as a fuel source is a reasonable and necessary investment for North Dakota and creates a local market which directly benefits North Dakota farmers.

Accordingly, Alchem supports this legislation and urges a favorable Do Pass Recommendation for SB 2270.

Todd Kranda

2004

Ethanol Incentive $1,600,000 max

250,000
1.8 million

Month	Ethanol Average	Corn Average	Incentive		
January	$1.40	$2.180	3,750,000.00	gallons ethonal produced	
February	$1.40	$2.510	-0.036271404	ethanol portion	
March	$1.65	$2.600	0.063	corn portion	
Quarter Avg	**$1.48**	**$2.43**	$0.03	total incentive	
Current Base Pt	$1.30	$1.80	**$100,232.24**	**payment**	**$100,232.24** Total
April	$1.80	$2.700	3,750,000.00	gallons ethonal produced	
May	$1.78	$2.770	-0.104019876	ethanol portion	
June	$1.88	$2.820	0.096333333	corn portion	
Quarter Avg	**$1.82**	**$2.76**	-$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$100,232.24** Total
July	$1.82	$2.510	3,750,000.00	gallons ethonal produced	
August	$1.62	$2.530	-0.073633688	ethanol portion	
September	$1.57	$2.380	0.067333333	corn portion	
Quarter Avg	**$1.67**	**$2.47**	-$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$100,232.24** Total
October	$1.91	$2.210	3,750,000.00	gallons ethonal produced	
November	$2.00	$2.120	-0.122965659	ethanol portion	
December	$1.83	$1.900	0.027666667	corn portion	
Quarter Avg	**$1.91**	**$2.08**	-$0.10	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$100,232.24** Total

15 mil gal plant

2004

Ethanol Incentive

$1,600,000 max

Month	Ethanol Average	Corn Average	Incentive		
January	$1.40	$2.180	12,500,000.00	gallons ethonal produced	
February	$1.40	$2.510	-0.036271404	ethanol portion	
March	$1.65	$2.600	0.063	corn portion	
Quarter Avg	**$1.48**	**$2.43**	$0.03	total incentive	
Current Base Pt	$1.30	$1.80	**$334,107.46**	**payment**	**$334,107.46 Total**
April	$1.80	$2.700	12,500,000.00	gallons ethonal produced	
May	$1.78	$2.770	-0.104019876	ethanol portion	
June	$1.88	$2.820	0.096333333	corn portion	
Quarter Avg	**$1.82**	**$2.76**	-$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$334,107.46 Total**
July	$1.82	$2.510	12,500,000.00	gallons ethonal produced	
August	$1.62	$2.530	-0.073633688	ethanol portion	
September	$1.57	$2.380	0.067333333	corn portion	
Quarter Avg	**$1.67**	**$2.47**	-$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$334,107.46 Total**
October	$1.91	$2.210	12,500,000.00	gallons ethonal produced	
November	$2.00	$2.120	-0.122965659	ethanol portion	
December	$1.83	$1.900	0.027666667	corn portion	
Quarter Avg	**$1.91**	**$2.08**	-$0.10	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$334,107.46 Total**

50 mil gal plant

SB 2270

Ethanol

The 1979 Legislature established the Agricultural Products Utilization Commission (APUC) to aid in the development and promotion of ethanol. APUC continues to be involved with ethanol and has granted funds to Dakota Renewable Fuels and Red Trail Energy. Both are planning to construct new ethanol plants in North Dakota.

The Commission also oversees the Production Incentive Program. The law reads: An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than 15 million gallons of ethanol may receive up to $600,000 in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which produced 15 million or more gallons in the previous fiscal year and an ethanol plant that begins operations after June 30, 1995, are each eligible to receive an equal share in up to $300,000 in production incentives from the state in a fiscal year. The rate of incentive is .40 cents per gallon.

The 2003 Legislature made provisions for new ethanol plants constructed in North Dakota after July 31, 2003. These plants will be eligible for quarterly incentive payments if the average North Dakota price for corn (as established by the North Dakota Agricultural Statistics Service) is above $1.80 per bushel or the average North Dakota rack price for ethanol (as compiled by the American Coalition for Ethanol) is above $1.30 per gallon. These incentive payments will be reduced or eliminated entirely if corn prices are below $1.80 per bushel or ethanol prices exceed $1.30 per gallon.

Historical Ethanol Payments

Fiscal Year	Alchem	ADM
1989	$ 1,103,026.00	$ 540,555.00
1990	$ 196,663.00	$ 506,972.00
1991	$ 875,000.00	$ 950,000.00
1992	$ 865,466.00	$ 939,577.00
1993	$ 950,000.00	$ 875,000.00
1994	$ 875,000.00	$ 950,000.00
1995	$ 875,000.00	$ 500,000.00
1996	$ 1,000,000.00	$ 500,000.00
1997	$ 1,000,000.00	
1998	$ 870,686.00	
1999	$ 875,000.00	
2000	$ 750,000.00	
2001	$ 750,000.00	
2002	$ 750,000.00	$ 500,000.00
2003	$ 600,000.00	$ 300,000.00
2004	$ 600,000.00	$ 300,000.00
Totals	**$12,935,841.00**	**$ 6,862,104.00**
Totals for both plants		**$19,797,945.00**

Project Criteria

Following each project presentation, Commission members individually score each application based on the following criteria:

Up to 30 Points for each of the following:

- Demonstration of a high level of probability for jobs and wealth creation,
- Scientific and technical merit of any research, as well as the qualifications of the project's principals (An application with substantial market and commercial potential will be favored over one with little perceived economic impact.), and
- Innovative and commercially plausible.

Up to 15 Points for the following:

- Demonstration of a large probability of rapid commercialization.

Up to 10 Points for each of the following:

- Demonstration of a shared commitment for funding from other sources (e.g. from the applicant and/or other public and private sources), and
- Potential success of a proposal (based on Commission members' individual judgment).

Up to 5 Points for the following:

- Geographical considerations.

The scores are compiled and ranked, and then each application is discussed to determine if it will or will not be funded.

Prepared by the North Dakota Legislative Council staff for House Appropriations - Government Operations

March 2001

Rep. Huber
SB 2270

ETHANOL PRODUCTION INCENTIVE PROGRAM - HISTORY

APPROPRIATIONS

The ethanol production incentive program began in North Dakota in 1989. Prior to 1989, the state allowed a four-cent per gallon tax reduction for ethanol-blended gasoline sold by retailers. The schedule below shows the appropriations made by the Legislative Assembly for ethanol production incentives since its inception in 1989:

	Appropriation From Highway Tax Distribution Fund
1989-91	$3,750,000[1]
1991-93	3,650,000
1993-95	3,650,000
1995-97	3,000,000
1997-99	1,750,000[2]
1999-2001	1,800,000[3]
Total through June 30, 2001	$17,600,000
2001-03 executive budget	2,500,000
Total through June 30, 2003	$20,100,000

[1] This amount was reduced by $342,000 due to budget reductions made as a result of the loss of revenues resulting from the defeat of the gas tax measure on the December 5, 1989, special election ballot.

[2] Includes $250,000 of unspent 1995-97 ethanol production incentive funding resulting from the ADM plant in Walhalla not receiving incentive payments during the second year of the biennium because it was not operating.

[3] Includes a $300,000 appropriation contingent upon a new plant beginning operations after July 1, 1999.

EXPENDITURES

The following schedule shows the actual ethanol production incentive payments made to the ethanol plants in North Dakota since the inception of the program in 1989:

Fiscal Year	Alchem, Ltd. Plant in Grafton	ADM Plant in Walhalla	Total
1989	$1,103,026	$540,555	$1,643,581
1990	196,663	506,972	703,635
1991	875,000	950,000	1,825,000
1992	865,466	939,577	1,805,043
1993	950,000	875,000	1,825,000
1994	875,000	950,000	1,825,000
1995	875,000	950,000	1,825,000
1996	1,000,000	500,000	1,500,000
1997	1,000,000		1,000,000
1998	870,686		870,686
1999	875,000		875,000
2000	750,000		750,000
2001	750,000		750,000
Total	$10,985,841	$6,212,104	$17,197,945

REVENUES

Since 1991, the Legislative Assembly has provided for additional revenues to the highway tax distribution fund to provide the funding necessary for the ethanol production incentive program. The 1991 Legislative Assembly provided for the additional revenues by extending, by one year, the vehicle age categories of the motor vehicle registration fee rate schedules for the 1991-93 and 1993-95 bienniums and by withholding an additional two cents from the agricultural fuel tax refund for the 1991-93 and 1993-95 bienniums. The 1995 Legislative Assembly extended these additional revenue provisions through the 1997-99 biennium. The 1997 Legislative Assembly, in Senate Bill No. 2019, reduced the agricultural fuel tax refund reduction by one cent, from two cents to one cent, because only the Alchem, Ltd. plant in Grafton was eligible for production incentives during the 1997-99 biennium. (The ADM plant in Walhalla had discontinued operations in September 1995.)

The 1999 Legislative Assembly continued the agricultural fuel tax reduction of one cent relating to the ethanol production incentive program through December 31, 2001, and removed the sunset clause of June 30, 1999, for extending, by one year, the vehicle age categories of the motor vehicle registration fee rate schedules. The Department of Transportation, in February 1999, estimated revenues from these two sources would generate $2,575,000 per biennium.

OTHER LEGISLATIVE ACTION

The 1995 Legislative Assembly, in House Bill No. 1134, limited the length of time an ethanol plant may receive incentives. The bill provided that a plant operating before July 1, 1995, could not receive incentives from the state for more than five years of operation after June 30, 1995. A plant that begins operations after June 30, 1995, could not receive incentive payments from the state for more than 10 years of operation, and after December 31, 2007, the state could not provide production incentives to any ethanol plant.

The bill also provided that a plant operating before July 1, 1995, which produced fewer than 15 million gallons of ethanol in the previous fiscal year may receive up to $1,000,000 in incentives from the state for production in each fiscal year. A plant in operation before July 1, 1995, which produced 15 million gallons or more of ethanol in the previous fiscal year and any plant that begins operations after June 30, 1995, would be eligible to receive an equal share of up to

$500,000 of incentives from the state for production in each fiscal year.

The 1997 Legislative Assembly provided that only e Alchem, Ltd. plant in Grafton was eligible for the production incentives of up to $875,000 per year for the 1997-99 biennium.

The 1999 Legislative Assembly extended, in House Bill No. 1019, the number of years ethanol plants may receive production incentives since June 30, 1995, from 5 to 12 years for plants operating before July 1, 1995, and from 10 to 12 years for plants beginning operation after June 30, 1995. After December 31, 2009, the state may not provide production incentives to any ethanol plant.

The 1999 Legislative Assembly provided that an ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than 15 million gallons of ethanol may receive incentives of up to $750,000 per year. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of 15 million gallons or more is not eligible to receive production incentives.

PLANT OPERATIONS

Since the ethanol production incentive program began in 1989, the Alchem, Ltd. plant in Grafton has been operating continually. The ADM plant in Walhalla was in operation from 1989 until it discontinued operating in September 1995. The plant reopened in July 1998 but again discontinued operations in May 1999. It reopened again in September 2000.

2001-03 RECOMMENDATION

The 2001-03 executive budget recommends, in Senate Bill No. 2019, appropriating $2.5 million from the highway tax distribution fund for ethanol incentives. Of this amount, an ethanol plant that was operating before July 1, 1995, and has a production capacity of fewer than 15 million gallons of ethanol may receive incentives of up to $850,000 per year and a plant that was in operation before July 1, 1995, and produced 15 million or more gallons in the previous fiscal year and any ethanol plant that begins operations after July 1, 1995, may share equally in up to $400,000 per year in production incentives. The recommendation also extends the number of years ethanol plants may receive production incentives from 12 to 14 years since July 1, 1995, for plants beginning operations after July 1, 1995, and from 12 to 14 years for plants beginning operations after July 1, 1995.

SURROUNDING STATES

South Dakota

South Dakota provides ethanol incentive payments of 20 cents per gallon of production with a $1 million annual limit per plant. The cumulative amount of incentive payments a plant may receive is $10 million.

South Dakota taxes gasohol at a 20 cents per gallon rate, two cents per gallon less than its gasoline tax rate of 22 cents per gallon.

Currently, three plants are operating in South Dakota, and two new plants are under construction. In addition, three new plants are in the development process.

Montana

Montana provides ethanol incentive payments of 30 cents per gallon of production with a $3 million annual limit per plant.

Currently, no plants are operating in Montana.

Minnesota

Minnesota provides ethanol incentive payments of 20 cents per gallon of production with a $3 million annual limit per plant. A plant is eligible for the incentive payment for 10 years.

Minnesota requires all gas sold in the state to contain at least 2.7 percent oxygen which creates demand for ethanol in Minnesota.

Currently, 15 plants are operating in Minnesota.

SB 2270
House Finance and Tax Committee
Representative Wes Belter, Chairman
March 7, 2005

Good Morning Chairman Belter and members of the House Finance and Tax Committee. For the Record my name is Harold Newman and I am the General partner and majority owner of Alchem LLC, an eleven Million gallon Ethanol producing plant located in Grafton, North Dakota.

I am here today to voice support for this bill.

SB 2270 says if an existing plant increases it production by Ten Million Gallons or 50% of its current production the plant would be entitled to the same Production incentive on this new production, as a newly constructed plant. It is intended to encourage an existing plant to increase it production of Ethanol.

I am also here to ask this committee to amend SB 2270 to continue the incentive to an existing plants as provided for in the original bill. In 1999 HB 1019 extended the number of years ethanol plants may receive production incentives from 5 to 12 years and that ethanol plants built before 1995 may receive incentives of up to $750,000 per year. This was the incentive we relied on when we reopened the plant again in 1997. We received a commitment at that time. I know one legislative session can not bind another, but that was the intent of the legislation.

As history to support this amendment, the Plant in Grafton was put in production in 1985. It was shut down in March of 1997 when corn reached $4.00 per bushel and the plant was not able to pay its bills. I and my family took over the operation, paid local farmers and Elevators over a million dollars for back obligations and put adequate funds in the operating account. The plant reopened in December of 1997. The plant has been operating on a continuous basis since that time. We have invested not only in paying off all the creditors from the past, but have continued to make improvements to the plant of over $800,000 per year! We have experienced Ethanol prices that average $1.25 per gallon during that time and have paid an average of $2.35 per bushel for 3.6 million bushels of corn we use each year.

Our financial results with the legislative council for the years of 1998 through 2004 indicate a profit of $348,561.43. If you take away the incentive payments we received in that same time our results would have been a loss of <$4,847,125.00>. I have attached a year by year analysis to my testimony.

As you can clearly see without the production incentive there would not have been an Ethanol industry in this state. You are all aware the other plant in North Dakota owned by ADM was shut down for five years during its 15 year history. The Grafton plant has run continuous except for 5 month during this same time. The plant provides employment for 35 people with an average pay of over $30,000 per year

What does the future hold for the industry? I believe there will be more demand for Ethanol in the future since we have never had a problem in selling the product. The problem has been the unstable price and the expense of the production of the product. During the last 15 months we have seen Ethanol go from less then $1.00 per gallon to over $1.90 with an average last year of $1.53 at our plant. This past week our Ethanol sales averaged $1.21 per gallon. At the same time we saw the average price of Corn at $2.65 per bushel.

During this past year we experienced an even more serious problem, a 100% increase in Natural gas. We have seen our natural gas price go from less the $3.00 per Dekatherm to over $6.00. This is a rise in expense of 1.8 million a year for the Grafton plant with no relief in site. I can only say we will not be able to make a profit with or without the subsidy unless changes can be made to help with this major problem.

I am committed to the production of Ethanol in the state and for our part have personally invested over ten million dollars in converting the Grafton plant from natural gas to being a 100% coal fired plant. This will be completed within the next 60 days and when that is done we will be able to reduce our fuel cost to again around $3.00 per dekatherm.

While I am committed I am asking for the legislative to live up to the commitment that was made in the 1999 session and reinstate the incentive to the existing plants for the next two years.

Mr. Chairman that concludes my Testimony, I would be willing to take any question the committee many have as to the industry or my commitment to the industry.

Harold Newman

Alchem Ltd., LLLP

	Net Income	State Funds	Net Income without State Funds
2004	$ 608,075.60	$ 600,000.00	$ 8,075.60
2003	$ (925,910.87)	$ 600,000.00	$ (1,525,910.87)
2002	$ (2,410,254.90)	$ 750,000.00	$ (3,160,254.90)
2001	$ 2,316,051.70	$ 750,000.00	$ 1,566,051.70
2000	$ 1,492,821.89	$ 750,000.00	$ 742,821.89
1999	$ (988,454.70)	$ 875,000.00	$ (1,863,454.70)
1998	$ 256,232.71	$ 870,686.00	$ (614,453.29)
	$ 348,561.43	$ 5,195,686.00	$ (4,847,124.57)

Lance Goebe

Revenue and Expenditure Projections of the State Ethanol Production Incentive

	fund revenues			fund expenditures		
	total of :		equals		with maximum disbursement	
biennium	farm vehicle registration*	farm gas tax refund check-off**	revenue	allocation*	provided to existing plants	fund balance
2003-05	$ 2,908,282	$ 235,500	$ 3,143,782	$ -	$ 1,800,000	$ 1,343,782
2005-07	$ 2,800,000	$ 221,370	$ 3,021,370	$ 1,600,000	$ 1,350,000	$ 1,415,152
2007-09	$ 2,800,000	$ 208,088	$ 3,008,088	$ 3,200,000		$ 1,223,240
2009-11	$ 2,800,000	$ 195,603	$ 2,995,603	$ 3,200,000		$ 1,018,842
2011-13	$ 2,800,000	$ 183,866	$ 2,983,866	$ 3,200,000		$ 802,709
2013-15	$ 2,800,000	$ 172,834	$ 2,972,834	$ 3,200,000		$ 575,543

*40% of farm vehicle registrations

**historically declines by 6%

*maximum dispursement per biennium

Amount that a hypothetical 15 million gallon plant would receive in ethanol incentive

Lance Grobe

2003

Ethanol Incentive **$1,600,000 max**

Month	Ethanol Average	Corn Average	Incentive		
January	$1.44	$2.080	12,500,000.00	gallons ethonal produced	
February	$1.44	$2.170	-0.028	ethanol portion	
March	$1.44	$2.150	0.033333333	corn portion	
Quarter Avg	**$1.44**	**$2.13**	$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$66,666.67**	**payment**	**$66,666.67** Total
April	$1.21	$2.200	12,500,000.00	gallons ethonal produced	
May	$1.21	$2.270	0.018	ethanol portion	
June	$1.21	$2.280	0.045	corn portion	
Quarter Avg	**$1.21**	**$2.25**	$0.06	total incentive	
Current Base Pt	$1.30	$1.80	**$787,500.00**	**payment**	**$854,166.67** Total
July	$1.31	$2.150	12,500,000.00	gallons ethonal produced	
August	$1.31	$2.100	-0.002	ethanol portion	
September	$1.31	$2.140	0.033	corn portion	
Quarter Avg	**$1.31**	**$2.13**	$0.03	total incentive	
Current Base Pt	$1.30	$1.80	**$387,500.00**	**payment**	**$1,241,666.67** Total
October	$1.68	$2.000	12,500,000.00	gallons ethonal produced	
November	$1.68	$2.030	-0.076	ethanol portion	
December	$1.68	$2.150	0.026	corn portion	
Quarter Avg	**$1.68**	**$2.06**	-$0.05	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$1,241,666.67** Total

Using formula and actual figures

2004

15 million gallon Pla

Ethanol Incentive

$1,600,000 max

Month	Ethanol Average	Corn Average	Incentive		
January	$1.40	$2.180	3,750,000.00	gallons ethanol produced	
February	$1.40	$2.510	-0.036271404	ethanol portion	
March	$1.65	$2.600	0.063000000	corn portion	
Quarter Avg	**$1.48**	**$2.43**	$0.03	total incentive	
Current Base Pt	$1.30	$1.80	**$100,232.24**	**payment**	**$100,232.24** Total
April	$1.80	$2.700	3,750,000.00	gallons ethanol produced	
May	$1.78	$2.770	-0.104019876	ethanol portion	
June	$1.88	$2.820	0.096333333	corn portion	
Quarter Avg	**$1.82**	**$2.76**	-$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$100,232.24** Total
July	$1.82	$2.510	3,750,000.00	gallons ethanol produced	
August	$1.62	$2.530	-0.073633688	ethanol portion	
September	$1.57	$2.380	0.067333333	corn portion	
Quarter Avg	**$1.67**	**$2.47**	-$0.01	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$100,232.24** Total
October	$1.91	$2.210	3,750,000.00	gallons ethanol produced	
November	$2.00	$2.120	-0.122965659	ethanol portion	
December	$1.83	$1.900	0.027666667	corn portion	
Quarter Avg	**$1.91**	**$2.08**	-$0.10	total incentive	
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	**$100,232.24** Total

15 million gallon

2005

Ethanol Incentive

$1,600,000 max

Month	Ethanol Average	Corn Average	Incentive			
January	$1.79	$1.910	3,750,000.00	gallons ethonal produced		
February	$1.59	$1.630	-0.055186723	ethanol portion		
March	$1.35	$1.650	-0.007000000	corn portion		
Quarter Avg	**$1.58**	**$1.73**	-$0.06	total incentive		
Current Base Pt	$1.30	$1.80	**$0.00**	**payment**	$0.00	Total
April	#DIV/0!	$0.000	3,750,000.00	gallons ethonal produced		
May	#DIV/0!	$0.000	#DIV/0!	ethanol portion		
June	#DIV/0!	$0.000	-0.18	corn portion		
Quarter Avg	**#DIV/0!**	**$0.00**	#DIV/0!	total incentive		
Current Base Pt	$1.30	$1.80	**#DIV/0!**	**payment**	#DIV/0!	Total
July	#DIV/0!	$0.000	3,750,000.00	gallons ethonal produced		
August	#DIV/0!	$0.000	#DIV/0!	ethanol portion		
September	#DIV/0!	$0.000	-0.18	corn portion		
Quarter Avg	**#DIV/0!**	**$0.00**	#DIV/0!	total incentive		
Current Base Pt	$1.30	$1.80	**#DIV/0!**	**payment**	#DIV/0!	Total
October	#DIV/0!	$0.000	3,750,000.00	gallons ethonal produced		
November	#DIV/0!	$0.000	#DIV/0!	ethanol portion		
December	#DIV/0!	$0.000	-0.18	corn portion		
Quarter Avg	**#DIV/0!**	**$0.00**	#DIV/0!	total incentive		
Current Base Pt	$1.30	$1.80	**#DIV/0!**	**payment**	#DIV/0!	Total