

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~am~~/p.m. on February 12, 1986 in room 519-S of the Capitol.

All members were present except:

Representatives Erne and Adam - Excused.

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Hank Avila, Legislative Research Department
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Bill Green, Kansas Corporation Commission
Mr. Tom Whitaker, Kansas Motor Carriers Association
Representative Richard Harper
Mr. Denny Burgess, Kansas Electric Cooperatives, Inc.

The meeting was called to order by Chairman Crowell, and the first order of business was a hearing on HB-2807 concerning the placing of motor carriers under the penalty provisions of the KCC.

Mr. Bill Green, Kansas Corporation Commission, testified in favor of HB-2807. (See Attachment 1)

Mr. Green said HB-2807 was introduced by the Committee at the request of the KCC following an investigation by the Commission of Orville W. Green Trucking, Inc., Imperial, Nebraska, for overweight violations.

Mr. Green stated as a result of the investigation, the Commission believes the language in K.S.A. 66-138 and 66-177 should be amended to include all motor carriers who are regulated by the Commission.

Mr. Tom Whitaker, Kansas Motor Carriers Association, testified in support of HB-2807.

The hearing on HB-2807 ended.

The next business was a hearing on HB-2768 concerning the powers of electric cooperatives.

Representative Richard Harper, sponsor of HB-2768, briefed the Committee on its contents.

Mr. Denny Burgess, Kansas Electric Cooperatives, Inc. gave favorable testimony concerning HB-2768. (See Attachment 2)

Mr. Burgess stated some minor adjustments are being requested in HB-2768 to clarify the authority to move forward in new technology areas. He added they need to be sure they have the authority to encourage, promote and participate in the transfer of this new technology to customers through participation with others, whether cooperatives, private corporations, partnerships or other types of entities.

Mr. Bruce Kinzie briefed the Committee on a proposed amendment to HB-2768. (See Attachment 3)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~am~~ p.m. on February 12, 1986

The Chairman announced HB-2768 would be discussed again at a later meeting.

Chairman Crowell handed out a bill draft and requested it be introduced as a Committee bill. The bill would provide for the authorization of construction, improvement and maintenance of certain highways, imposing certain taxes and authorizing certain loans for payment of the costs. (See Attachment 4)

A motion was made by Representative Wilbert to introduce the proposed legislation as a Committee bill. The motion was seconded by Representative Dillon. Motion passed.

Representatives Patrick, Snowbarger and Brown wished to be recorded as voting "no" on the motion.

Chairman Crowell distributed a bill draft concerning the motor vehicle fuels tax on gasohol. (See Attachment 5)

A motion was made by Representative Snowbarger to introduce this as a Committee bill. The motion was seconded by Representative Dillon. Motion passed.

The meeting was adjourned at 2:00 p.m.


Rex Crowell, Chairman



JOHN CARLIN
MICHAEL LENNEN
MARGALEE WRIGHT
KEITH R. HENLEY
JUDITH A. McCONNELL
BRIAN J. MOLINE

Governor
Chairman
Commissioner
Commissioner
Executive Secretary
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.
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TOPEKA, KANSAS 66612-1571

STATEMENT PRESENTED ON H.B. 2807 TO THE HOUSE
TRANSPORTATION COMMITTEE ON FEBRUARY 12, 1986 BY THE
STATE CORPORATION COMMISSION OF KANSAS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION, I APPEAR HERE TODAY ON BEHALF OF THE COMMISSION IN SUPPORT OF H.B. 2807.

YOU WILL RECALL THAT THIS BILL WAS INTRODUCED BY THIS COMMITTEE AT THE REQUEST OF THE COMMISSION. THE BILL WAS REQUESTED FOLLOWING THE COMMISSION'S INVESTIGATION OF ORVILLE W. GREEN TRUCKING, INC. OF IMPERIAL, NEBRASKA, FOR OVERWEIGHT VIOLATIONS. THESE WEIGHT VIOLATIONS WERE BROUGHT TO THE ATTENTION OF THE COMMISSION BY THE COUNTY ATTORNEY OF RAWLINS COUNTY. THIS MOTOR CARRIER RECEIVED 11 TICKETS FOR BEING OVERWEIGHT AND 3 TICKETS FOR FAILURE TO CLEAR OPEN SCALES IN A PERIOD OF 8 MONTHS WHILE OPERATING UNDER HIS PRIVATE MOTOR CARRIER AUTHORITY.

THE HEARING EXAMINER RECOMMENDED THAT THE COMMISSION:

1. SUSPEND THE CARRIER FOR 90 DAYS;
2. THAT THE CARRIER NOT BE PERMITTED TO LEASE ITS EQUIPMENT TO ANOTHER CARRIER DURING THE PERIOD OF SUSPENSION; AND
3. REQUIRED THE CARRIER TO PURCHASE SCALES AND FILE ALL SCALE TICKETS FOR TRIPS INTO KANSAS EVERY 30 DAYS FOLLOWING THE SUSPENSION PERIOD (LIMITED TO 90 DAYS).

H. Transp. 2/12/86
Attach. 1

ONE OF THE RECOMMENDATIONS CONSIDERED IN THIS CASE WAS TO FINE THE MOTOR CARRIER UNDER K.S.A. 66-177 FOR "WILLFUL VIOLATIONS" OF THE LAWS GOVERNING MOTOR CARRIERS.

THE STATUTE (K.S.A. 66-177) COULD NOT BE APPLIED BECAUSE THE CURRENT STATUTE ONLY MAKES REFERENCE TO COMMON CARRIERS, AS DEFINED BY K.S.A. 66-105. THE LAW CURRENTLY DOES NOT, AS IN THE CASE JUST MENTIONED, APPLY TO PRIVATE MOTOR CARRIERS WHO ARE REGULATED BY THE COMMISSION.

AS A RESULT OF THE INVESTIGATION OF ORVILLE GREEN TRUCKING, INC., THE COMMISSION BELIEVES THE LANGUAGE IN K.S.A. 66-138 AND 66-177 SHOULD BE AMENDED TO INCLUDE ALL MOTOR CARRIERS WHO ARE REGULATED BY THE COMMISSION. THE NEW LANGUAGE CONTAINED IN H.B. 2807 MAKES REFERENCE TO "CERTIFICATE, PERMIT OR LICENSE". BY THE USE OF THESE THREE TERMS, WHICH ARE DEFINED IN THE MOTOR CARRIER ACT AND IN THE COMMISSION'S REGULATIONS (K.A.R. 82-4-1), ALL MOTOR CARRIERS REGULATED BY THE COMMISSION WOULD BE INCLUDED IN THE CIVIL PENALTY PROVISIONS.

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, SHOULD YOU HAVE ANY QUESTIONS I WILL ATTEMPT TO ANSWER THEM.

2/12/86

STATEMENT
ON BEHALF OF
KANSAS ELECTRIC COOPERATIVES, INC.
TO THE
HOUSE TRANSPORTATION COMMITTEE
HB 2768
FEBRUARY 12, 1986

The attached statement is submitted for your information
and for inclusion in the Committee record.

Kansas Electric Cooperatives, Inc. is a statewide trade association with membership consisting of 35 rural electric cooperatives (two generation and transmission cooperatives and 33 distribution cooperatives) serving Kansas.

H. Transp. 2/12/86
Attach. 2

TESTIMONY BEFORE
HOUSE TRANSPORTATION COMMITTEE
HOUSE BILL NO. 2768
FEBRUARY 12, 1986

BY

DENNY D. BURGESS

KANSAS ELECTRIC COOPERATIVES, INC.

Mr. Chairman and Members of the Committee:

I am Denny Burgess representing the Kansas Electric Cooperatives, Inc. Electric cooperatives in Kansas are formed and organized as not-for-profit, cooperative, service organizations under a special enabling act. The "Electric Cooperative Act" became law in 1941 and has only been amended on one occasion. The Act and the electric cooperatives organized under it have served the state of Kansas well. Electric cooperatives have provided services and benefits to hundreds of thousands of Kansans throughout 80% of the state's land area that could only be possible through the miracle of electricity.

Electric cooperative pioneers and leaders aided their fellow Kansans by working together to provide the labor, materials and capital necessary to wire homes and farms and obtain the appliances and equipment needed to achieve a better standard of living with the new technology available in the age of the Great Depression.

Today, we stand ready to carry that legacy into the 21st Century. The wonders of modern technology now provide for new forms of energy conversion, conservation, and load control equipment which hold great promise as a means of providing energy and other services more efficiently and at a lower cost.

Many electric cooperatives are already using new technology to hold down peak demand requirements through the use of load control devices on customer equipment. These control devices, placed on the customer's equipment, respond to communications signals generated by a computer which selects specific loads to be interrupted at critical peak times. We are also using new equipment to research customer load requirements in order to make better decisions about future power requirements and plant additions.

Air-to-air and ground-coupled heat pumps, which heat and cool homes, businesses, and farm buildings, heat pump water heaters and solar panels will produce and use energy more efficiently in the future. At the same time we are encouraging new uses of electricity, not waste, but wise use. New products, equipment, and appliances to make our customers' lives more productive and enjoyable, whether they live on the farm or in the city.

We are requesting some minor amendments to our enabling legislation under House Bill No. 2768 to clarify our authority to move forward in the new technology areas. The bill clearly spells out that cooperatives will be able to aid their customers in obtaining, using and financing the equipment, systems and services now available. We need to be sure that we also have the authority to encourage, promote and participate in the transfer of this new technology to our customers through participation with others, whether cooperatives, private corporations, partnerships or other types of entities.

While we may already have the authority to undertake these acts by statutory interpretation, the precedent of court decisions, history and custom, we are cautious due to the possible scale of effort and investment which it will take to move forward in these programs. Therefore, we encourage this specific clarifying amendment.

Mr. Chairman and members of the Committee, we thank you for the opportunity to appear before you and we urge your support of House Bill No. 2768.

PROPOSED AMENDMENTS ON HOUSE BILL NO. 2768

"AN ACT relating to electric cooperatives; concerning the powers thereof; amending K.S.A. 17-4604 and repealing the existing section."

Be amended:

On page 1, by inserting before line 23, a new section to read as follows:

"Section 1. K.S.A. 17-4602 is hereby amended to read as follows: 17-4602. Co-operative, nonprofit, membership corporations may be organized under this act to conduct or promote any lawful business under the general corporation laws of the state and for the purpose of supplying electric energy and promoting and extending the use thereof.";

By renumbering sections accordingly;

On page 3, in line 89, by striking "17-4604 is" and inserting "17-4602 and 17-4604 are";

On page 1, in the title, in line 20, by inserting before "17-4604" the following: "17-4602 and"; in line 21, by striking "section" and inserting "sections";

And the bill be passed as amended.

H. Transp. 2/12/86
Attach. 3

HOUSE BILL NO. _____

By

AN ACT relating to roads and highways; authorizing for the construction, improvement and maintenance of certain highways; imposing certain taxes and authorizing certain loans for the payment of the cost of such construction, improvement and maintenance; amending K.S.A. 79-3408c, 79-3425, 79-3475a, 79-3487, 79-3491a, 79-34,104, 79-34,118, 79-34,126, 79-34,142 and K.S.A. 1985 Supp. 79-34,141 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. In order to provide for the construction of modern express highways and freeways from the eastern to the western border of the state and within the southern half of the state not presently served by modern express highways and freeways for the purpose of providing access to the cities of this area of the state, to facilitate the movement of goods produced or manufactured in such area and in general promote the agricultural and economic or industrial development of that portion of the state, the secretary of transportation is hereby authorized and directed to establish and construct a system of modern express highways and freeways, using existing highway right-of-way where possible, between the following:

(a) Beginning at the Kansas turnpike at the city of Wichita or a point on such turnpike between such city and the Kansas-Oklahoma border; thence proceeding in an easterly and southeasterly direction to a point on the Kansas-Oklahoma border or the Kansas-Missouri border providing the most feasible connection with interstate 144 in the vicinity of Joplin, Missouri; and

(b) commencing at the Kansas turnpike at the city of

*H. Transp 2/12/86
Attach. 4*

Wichita; thence proceeding in a southwesterly direction to the Kansas-Colorado border or the Kansas-Oklahoma border.

New Sec. 2. All moneys credited to the southern Kansas economic development freeway fund established pursuant to K.S.A. 79-3425, and amendments thereto, shall be expended by the secretary of transportation for the construction, reconstruction, improvement and maintenance of the system of express highways and freeways established pursuant to section 1 of this act. The allocation and programming of funds within such system in each fiscal year shall be according to need, as determined by a schedule of priorities assigned to segments of the highways to be constructed along the routes established in section 1 of this act, except that when the need established for segments of the highways along the two routes are equivalent, the segment of highway along the easterly route shall be given priority.

Sec. 3. K.S.A. 79-3408c is hereby amended to read as follows: 79-3408c. (a) A tax is hereby imposed on the use, sale or delivery of all motor-vehicle fuel owned at 12:01 a.m. July 1, 1983, ~~and at 12:01 a.m. on January 1, 1984~~ 1986, and on July 1 of each year thereafter, by any licensed distributor or unlicensed retail dealer at a rate per gallon, or fraction thereof, equal to the amount, if any, by which the tax per gallon, or fraction thereof, in effect on such date as prescribed by K.S.A. 79-3408, and amendments thereto, exceeds the rate of tax upon such motor-vehicle fuel which was in effect on the preceding day. Such tax shall be paid by the licensed distributor or unlicensed retail dealer owning such motor-vehicle fuel at such time and date. On or before the 25th day of the month in which a tax is imposed under this section, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons, or fraction thereof, of such motor-vehicle fuel owned at the time the tax is imposed under this section and such report shall be accompanied by a remittance of the tax due.

Any licensed distributor or unlicensed retail dealer who

shall fail to make such report or pay such tax, within the time hereinbefore prescribed, shall be subject to the same penalties and interest charges prescribed by the motor-vehicle fuel tax law for failure of a licensed distributor to make monthly reports and payments of motor-vehicle fuel tax. The provisions of the motor-fuel tax law relating to remedies for the collection of delinquent motor-fuel taxes from distributors shall apply to the collection of taxes imposed by this section which have become delinquent from licensed distributors and unlicensed retail dealers. All taxes, penalties and interest collected by the director under the tax imposed by this section shall be paid by the director into the state treasury and the state treasurer shall credit the same to the funds and in the amounts specified in K.S.A. 79-34,142, and amendments thereto.

(b) Whenever the rate of tax upon motor-vehicle fuels fixed pursuant to K.S.A. 79-3408, and amendments thereto, which become effective on July 1, ~~1984~~ 1986, or on July 1 in any year thereafter is less than the rate of tax upon such fuel in effect on the preceding day, the licensed distributor or unlicensed retail dealer owning such fuel at 12:01 a.m. on the date such reduction in taxes becomes effective shall be entitled to a refund of taxes paid upon such fuel in an amount equal to the amount by which taxes were reduced from the amount of motor-vehicle fuels taxes per gallon, or fraction thereof, actually paid upon each gallon, or fraction thereof, of motor-vehicle fuels multiplied by the number of gallons of motor-vehicle fuels owned by the distributor or dealer on such date. On or before the 25th day of the month in which such tax is reduced, every such distributor and retail dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such motor-vehicle fuel owned by such distributor or dealer at 12:01 a.m. on the date upon which such tax was reduced. It shall be the duty of the director of taxation to examine all such claims and determine the amount to which each claimant is entitled. In

the event any distributor or dealer entitled to such refund shall owe the state any motor-vehicle fuel tax, penalties, or interest, the refund authorized by this section shall upon being determined by the director be credited upon the amount of such taxes, penalties and interest. Whenever the director shall determine that any distributor or dealer shall be entitled to a refund under any of the provisions of this section, and such refund cannot be effected by giving credit therefor, as hereinbefore provided, or against the future motor-vehicle fuel tax liability of such taxpayer the director shall certify the amount of the refund to the state director of accounts and reports, who shall draw a warrant for the amount so certified on the state treasurer in favor of the distributor or dealer entitled to such refund, and mail, or otherwise deliver, the same to the distributor entitled thereto. Such warrant shall be paid by the state treasurer to such distributor or dealer from the motor-vehicle fuel tax refund fund.

Sec. 4. K.S.A. 79-3425 is hereby amended to read as follows: 79-3425. (a) All of the amounts collected under the motor-fuel tax law and amendments thereto, except amounts collected pursuant to K.S.A. 79-3408c, and amendments thereto, shall be remitted by the director to the state treasurer daily, and the state treasurer shall deposit all such amounts in the state treasury. The state treasurer shall credit such amount thereof as the director shall order in the motor-vehicle fuel tax refund fund to be used for the purpose of paying motor-vehicle fuel tax refunds as provided by law. The state treasurer shall credit the remainder of such amounts as follows: ~~On--and--after July--1,--1983,~~ To the state freeway fund which fund is hereby created, amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in K.S.A. 68-2301, and amendments thereto, and to a special city and county highway fund which is hereby created, amounts specified in K.S.A. 79-34,142, and amendments thereto, to be apportioned and distributed in the manner provided in K.S.A. 79-3425c, and

amendments thereto, and on and after July 1, 1987, to the southern Kansas economic development freeway fund, which is hereby created, amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in section 2 of this act.

(b) On ~~July 27, 1983, and on~~ each day thereafter, after the state treasurer has received certification from the secretary of transportation that provisions have been made for the payment of the pro rata share of the amount required to be paid on the next ensuing payment date of either the principal of or the interest on the outstanding highway bonds issued pursuant to K.S.A. 68-2304 and amendments thereto, the state treasurer shall transfer from the state freeway fund to the state highway fund an amount specified in K.S.A. 79-34,143, and amendments thereto.

Sec. 5. K.S.A. 79-3475a is hereby amended to read as follows: 79-3475a. (a) A tax is hereby imposed on all special fuels owned at 12:01 a.m. July 1, 1983, ~~and at 12:01 a.m. on January 1, 1984~~ 1986, and on July 1 of each year thereafter, by any special fuel user or special fuel dealer at a rate per gallon, or fraction thereof, equal to the amount, if any, by which the tax per gallon, or fraction thereof, in effect on such date as prescribed by K.S.A. 79-3475, and amendments thereto, exceeds the rate of tax upon such special fuels which was in effect on the preceding day. Such tax shall be paid by the special fuel user or special fuel dealer owning such special fuels at such time and date. On or before the 25th day of the month in which a tax is imposed under this section, every such special fuel user and special fuel dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons, or fraction thereof, of such special fuels owned by such user or dealer at the time the tax is imposed under this section, and such report shall be accompanied by a remittance of the tax due.

Any special fuel user or special fuel dealer who shall fail to make such report or pay such tax, within the time hereinbefore

prescribed, shall be subject to the same penalties and interest charges prescribed by the motor-vehicle fuel tax law for failure of a licensed distributor to make monthly reports and payments of motor-vehicle fuel tax. The provisions of the motor-fuel tax law relating to remedies for the collection of delinquent motor-fuel taxes from distributors shall apply to the collection of taxes imposed by this section which have become delinquent from special fuel users and special fuel dealers. All taxes, penalties and interest collected by the director under the tax imposed by this section shall be paid by the director into the state treasury and the state treasurer shall credit the same to the funds and in the amounts specified in K.S.A. 79-34,142, and amendments thereto.

The words and phrases used in this section shall have the meanings ascribed to them in K.S.A. 79-3474, and amendments thereto.

(b) Whenever the rate of tax upon special fuels fixed pursuant to K.S.A. 79-3475, and amendments thereto, which becomes effective on July 1, ~~1984~~ 1986, or on July 1 in any year thereafter, is less than the rate of tax upon such fuel in effect on the preceding day, the user or dealer owning such fuel at 12:01 a.m. on the date such reduction in taxes becomes effective shall be entitled to a refund of taxes paid upon such fuel in an amount equal to the amount by which taxes were reduced from the amount of taxes per gallon, or fraction thereof, actually paid upon each gallon, or fraction thereof, of special fuels multiplied by the number of gallons of fuel owned by the user or dealer on such date. On or before the 25th day of the month in which such tax is reduced, every such user or dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such special fuels owned by such user or dealer at 12:01 a.m. on the date upon which such tax was reduced. It shall be the duty of the director of taxation to examine all such claims and determine the amount to which any claimant is entitled. In the event any user or dealer entitled to such refund shall owe the state any special

fuel tax, penalties, or interest, the refund authorized by this section shall upon being determined by the director be credited upon the amount of such taxes, penalties and interest. Whenever the director shall determine that any user or dealer shall be entitled to a refund under any of the provisions of this section, and such refund cannot be effected by giving credit therefor, as hereinbefore provided, or against the future special fuels tax liability of such taxpayer the director shall certify the amount of the refund to the state director of accounts and reports, who shall draw a warrant for the amount so certified on the state treasurer in favor of the user or dealer entitled to such refund, and mail, or otherwise deliver, the same to the user or dealer entitled thereto. Such warrant shall be paid by the state treasurer to such user or dealer from the special fuels tax refund fund, which fund is hereby established in the state treasury.

(c) A fund designated as the special fuels tax refund fund not to exceed \$1,000,000 shall be set apart and maintained by the director of taxation from the special fuels tax collected under the provisions of article 34 of chapter 79 of Kansas Statutes Annotated, and amendments thereto, and held by the state treasurer for the payment of all refunds authorized by this section.

Sec. 6. K.S.A. 79-3487 is hereby amended to read as follows: 79-3487. (a) All amounts collected under the special fuels tax law, except amounts collected pursuant to K.S.A. 79-3475a, and amendments thereto, shall be remitted by the director to the state treasurer daily, and the state treasurer shall deposit the same in the state treasury. The state treasurer shall credit such amounts as follows: ~~On and after July 1, 1983,~~ To the state freeway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in K.S.A. 68-2301 and amendments thereto, and amounts specified in K.S.A. 79-34,142, and amendments thereto, to a special city and county highway fund to be apportioned and

distributed in the manner provided in K.S.A. 79-3425c, and amendments thereto, and on and after July 1, 1987, to the southern Kansas economic development freeway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in section 2 of this act.

(b) ~~On July 2, 1983, and on~~ each day thereafter, after the state treasurer has received certification from the secretary of transportation that provisions have been made for the payment of the pro rata share of the amount required to be paid on the next ensuing payment date of either principal and interest or interest on the outstanding highway bonds issued pursuant to K.S.A. 68-2304 and amendments thereto, the state treasurer shall transfer from the state freeway fund to the state highway fund an amount specified in K.S.A. 79-34,143, and amendments thereto.

Sec. 7. K.S.A. 79-3491a is hereby amended to read as follows: 79-3491a. (a) A tax is hereby imposed on all LP-gas motor fuels owned at 12:01 a.m. July 1, 1983, ~~and at 12:01 a.m. on January 1, 1984~~ 1986, and on July 1 of each year thereafter, by any LP-gas motor fuels user or LP-gas motor fuels dealer at a rate per gallon, or fraction thereof, equal to the amount, if any, by which the tax per gallon, or fraction thereof, in effect on such date as prescribed by K.S.A. 79-3492, and amendments thereto, exceeds the rate of tax per gallon actually paid upon such fuel. Such tax shall be paid by the LP-gas motor fuel user or LP-gas motor fuel dealer owning said LP-gas motor fuels at such time and date. On or before the 25th day of the month in which such tax is imposed under this section, every such LP-gas motor fuel user and LP-gas motor fuel dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons, or fraction thereof, of such LP-gas motor fuels owned by the user or dealer at the time the tax is imposed under this section, and such report shall be accompanied by a remittance of the tax due.

Any LP-gas motor fuels user or LP-gas motor fuels dealer who shall fail to make such report or pay such tax, within the time

hereinbefore prescribed, shall be subject to the same penalties and interest charges prescribed by the liquefied petroleum motor fuel tax law for failure of a licensed distributor to make monthly reports and payments of LP-gas motor fuel tax. The provisions of the liquefied petroleum motor fuel tax law relating to remedies for the collection of delinquent LP-motor fuel taxes from distributors shall apply to the collection of taxes imposed by this section which have become delinquent from LP-gas motor fuels users and LP-gas motor fuels dealers. All taxes, penalties and interest collected by the director under the tax imposed by this section shall be paid by the director into the state treasury and the state treasurer shall credit the same to the funds and in the amounts specified in K.S.A. 79-34,142, and amendments thereto.

The words and phrases used in this section shall have the meanings ascribed to them in K.S.A. 79-3490, and amendments thereto.

(b) Whenever the rate of tax upon LP-gas motor fuels fixed pursuant to K.S.A. 79-3492, and amendments thereto, which becomes effective on July 1, ~~1984~~ 1986, or on July 1 in any year thereafter, is less than the rate of tax upon such fuels in effect on the preceding day, the user or dealer owning such fuels at 12:01 a.m. on the date such reduction in taxes becomes effective shall be entitled to a refund of taxes paid upon such fuels in an amount equal to the amount by which taxes were reduced from the amount of tax per gallon, or fraction thereof, actually paid upon each gallon, or fraction thereof, of LP-gas motor fuels multiplied by the number of gallons of fuel owned by the user or dealer on such date. On or before the 25th day of the month in which such tax is reduced, every such user or dealer shall make a report to the director on a form prescribed and furnished by the director showing the total number of gallons of such LP-gas motor fuels owned by such user or dealer at 12:01 a.m. on the date upon which such tax was reduced. It shall be the duty of the director of taxation to examine all such claims

and determine the amount to which any claimant is entitled. In the event any user or dealer entitled to such refund shall owe the state any LP-gas motor fuels tax, penalties or interest, the refund authorized by this section shall upon being determined by the director be credited upon the amount of such taxes, penalties and interest. Whenever the director shall determine that any user or dealer shall be entitled to a refund under any of the provisions of this section, and such refund cannot be effected by giving credit therefor, as hereinbefore provided, or against the future LP-gas motor fuel tax liability of such taxpayer the director shall certify the amount of the refund to the state director of accounts and reports, who shall draw a warrant for the amount so certified on the state treasurer in favor of the user or dealer entitled to such refund, and mail, or otherwise deliver, the same to the user or dealer entitled thereto. Such warrant shall be paid by the state treasurer to such user or dealer from the LP-gas motor fuels [tax] refund fund which is hereby established in the state treasury.

(c) A fund designated as the LP-gas motor fuels tax refund fund not to exceed \$1,000,000 shall be set apart and maintained by the director of taxation from the LP-gas motor fuels tax collected under the provisions of article 34 of chapter 79 of Kansas Statutes Annotated, and amendments thereto, and held by the state treasurer for the payment of all refunds authorized by this section.

Sec. 8. K.S.A. 79-34,104 is hereby amended to read as follows: 79-34,104. (a) All amounts collected under the liquefied petroleum motor-fuel tax law, except amounts collected pursuant to K.S.A. 79-3491a ~~of this act~~, and amendments thereto, shall be remitted by the director to the state treasurer daily, and the state treasurer shall deposit the same in the state treasury. The state treasurer shall credit such amounts as follows: ~~On--and--after--July--17--1983,~~ To the state freeway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in K.S.A. 68-2301 and

amendments thereto, and amounts specified in K.S.A. 79-34,142, and amendments thereto, to a special city and county highway fund to be apportioned and distributed in the manner provided in K.S.A. 79-3425c, and amendments thereto, and on and after July 1, 1987, to the southern Kansas economic development freeway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in section 2 of this act.

(b) On ~~July 2, 1983, and on~~ each day thereafter, after the state treasurer has received certification from the secretary of transportation that provisions have been made for the payment of the pro rata share of the amount required to be paid on the next ensuing payment date of either principal and interest or interest on the outstanding highway bonds issued pursuant to K.S.A. 68-2304 and amendments thereto, the state treasurer shall transfer from the state freeway fund to the state highway fund an amount specified in K.S.A. 79-34,143, and amendments thereto.

Sec. 9. K.S.A. 79-34,118 is hereby amended to read as follows: 79-34,118. Upon application to the director of taxation and payment of the fee therefor prescribed under this section any interstate motor fuel user may obtain a trip permit which will authorize one commercial motor vehicle to be operated within this state without compliance with the other provisions of the interstate motor fuel use act and in lieu of the tax imposed by K.S.A. 79-34,109 and amendments thereto. The fee for each trip permit issued under this section shall be \$5, ~~except that on and after July 1, 1983, the fee for such trip permit shall be \$6 until January 1, 1984, and from January 1, 1984, to July 1, 1985, the fee for such trip permit shall be \$6.50, and shall be further increased or decreased on July 1, 1985, and on July 1 of each succeeding year by an amount equal to \$.50 for each \$.01 of increase or decrease in the rate of tax upon motor-vehicle fuels computed under subsection (a) of K.S.A. 79-34,141, and amendments thereto.~~ After January 1, 1984, the fee for a trip permit shall be not less than \$6.50. The secretary of revenue shall adopt rules and regulations specifying the conditions under which trip

permits will be issued and providing for the issuance thereof. The secretary may designate agents or contract with private individuals, firms or corporations to issue such trip permits so that such permits will be obtainable at convenient locations.

Sec. 10. K.S.A. 79-34,126 is hereby amended to read as follows: 79-34,126. (a) All amounts collected under the interstate motor fuel use act shall be remitted by the director to the state treasurer daily, and the state treasurer shall deposit the same in the state treasury. The state treasurer shall credit such amounts as follows: ~~On-and-after-July-17-1983,~~ To the state freeway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in K.S.A. 68-2301 and amendments thereto, and amounts specified in K.S.A. 79-34,142, and amendments thereto, to a special city and county highway fund to be apportioned and distributed in the manner provided in K.S.A. 79-3425c, and amendments thereto, and on and after July 1, 1987, to the southern Kansas economic development freeway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to be expended in the manner provided in section 2 of this act.

(b) ~~On July-27-1983,-and-on~~ each day thereafter, after the state treasurer has received certification from the secretary of transportation that provisions have been made for the payment of the pro rata share of the amount required to be paid on the next ensuing payment date of either principal and interest or interest on the outstanding highway bonds issued pursuant to K.S.A. 68-2304 and amendments thereto, the state treasurer shall transfer from the state freeway fund to the state highway fund an amount prescribed by K.S.A. 79-34,143, and amendments thereto.

Sec. 11. K.S.A. 1985 Supp. 79-34,141 is hereby amended to read as follows: 79-34,141. (a) The director of taxation shall compute tax rates to the nearest cent per gallon on motor-vehicle fuels as provided in this section. For the twelve-month periods commencing at 12:01 a.m. on July 1, 1985 1986, and at 12:01 a.m. on July 1 of each year thereafter, the director shall compute

such rate by multiplying ~~10.5%~~ 4.188% times the unweighted ~~average-retail-price-per-gallon-of-premium,--regular-and--unleaded motor-vehicle--fuels--sold--during--the--month-of-November~~ United States city average consumer price index for all urban consumers, 1967=100, over the period of the calendar year preceding the July 1 that such period commences as reported in--the--petroleum marketing--monthly--report--as--published by the energy-information administration bureau of labor statistics of the United States department of energy labor.

(b) The tax rate per gallon on special fuels shall be an amount equal to the then current tax rate per gallon computed for motor-vehicle fuels under the provisions of subsection (a) plus \$.02 per gallon.

(c) The tax rate per gallon on LP-gas motor fuels shall be an amount equal to the then current tax rate per gallon computed for motor-vehicle fuels under the provisions of subsection (a) minus \$.01 per gallon.

(d) Notwithstanding the provisions of subsections (a) and (e), on and after ~~January 1, 1984~~ July 1, 1986, the tax rates imposed under this act shall be not less than:

(1) On motor-vehicle fuels, ~~\$.11~~ \$.13 per gallon, or fraction thereof;

(2) on special fuels, ~~\$.13~~ \$.15 per gallon, or fraction thereof; and

(3) on LP-gas, ~~\$.10~~ \$.12 per gallon, or fraction thereof.

(e) The tax rate per gallon on motor-vehicle fuels for the twelve-month periods which begin on July 1, 1985 1987, and on each July 1 thereafter shall not be more than \$.01 above nor less than \$.01 below the tax rate computed for the immediately preceding twelve-month period.

Sec. 12. K.S.A. 79-34,142 is hereby amended to read as follows: 79-34,142. (a) ~~From--the-effective-date-of-this-act until-July-1, 1983, the--state--treasurer--shall--credit--amounts received--pursuant---to---K.S.A.---79-3408,--79-3408e,--79-3475, 79-3475a,--79-3491a,--79-3492--and--79-34,118--and--amendments--thereto~~

~~in accordance with the allocation provided by law in effect on the day prior to the effective date of this act.~~

~~(b) Except as otherwise provided in subsection (c), on and after July 1, 1983, the state treasurer shall credit amounts received pursuant to K.S.A. 79-3408, 79-3408c, 79-3475, 79-3475a, 79-3491a, 79-3492 and 79-34,118 and amendments thereto as follows: To the state freeway fund 55.6% and to the special city and county highway fund 44.4%.~~

(c) Except as otherwise provided in subsection (d) (c), on and after January 1, 1984 the effective date of this act until July 1, 1987, the state treasurer shall credit amounts received pursuant to K.S.A. 79-3408, 79-3408c, 79-3475, 79-3475a, 79-3491a, 79-3492 and 79-34,118 and amendments thereto as follows: To the state freeway fund 59.5% and to the special city and county highway fund 40.5%.

(b) Except as otherwise provided in subsection (c), on and after July 1, 1987, the state treasurer shall credit amounts received pursuant to K.S.A. 79-3408, 79-3408c, 79-3475, 79-3475a, 79-3491a, 79-3492 and 79-34,118, and amendments thereto, as follows: First, to the southern Kansas economic development freeway fund 7.14%; and second, the balance of all moneys received pursuant to such sections shall be credited to the state freeway fund 59.5% and to the special city and county highway fund 40.5%.

(d) (c) On and after July 1, 1985, whenever the rate of tax upon motor vehicle fuels fixed pursuant to subsection (a) of K.S.A. 79-34,141, and amendments thereto, is increased or decreased, the secretary of transportation shall adjust the percentages prescribed by ~~subsection (c)~~ subsections (a) and (b) of this section in such a manner that the amount in excess of the amount of revenue produced by the rates of tax prescribed in subsection (d) of K.S.A. 79-34,141 and the \$6.50 rate prescribed in K.S.A. 79-34,118, and amendments thereto, shall be allocated in proportion of 7.14% thereof to southern Kansas economic development freeway fund and the balance thereof to be allocated

in proportion of 65% thereof to the freeway fund and 35% thereof to the special city and county highway fund, adjusted to the nearest .10%.

New Sec. 13. All moneys received by the state in the annual apportionment of federal aid which is attributable to the inclusion of all lane miles and vehicle miles of travel for the Kansas turnpike pursuant to the agreement made between the Kansas turnpike authority, the state of Kansas acting through the secretary of transportation and the United States acting through the federal highway administration on the 14th day of September, 1984, shall be credited to the southern Kansas economic development freeway fund created pursuant to K.S.A. 79-3425, and amendments thereto, and expended for the purposes provided by section 2 of this act.

New Sec. 14. In order to assist counties and cities in highway construction for the purpose of enhancing and supporting the economic development of those communities, the Kansas economic development highway fund is hereby created. The fund shall be used to provide interest free loans to such local communities for the purpose of constructing highway facilities eligible to be placed on the state highway system.

New Sec. 15. The eligibility for obtaining funding from the Kansas economic development highway fund shall be determined in the following manner:

(a) Any county or city or combination of counties and cities may apply to the Kansas department of transportation for funding of an economic development highway improvement project. Projects must be improvements to a route on the state system, or qualify for addition to the state system once completed. Further, they must be for the express purpose of enhancing or supporting the economic development of the area. Routes to be added to the state system should substitute for existing facilities already on the system;

(b) loans shall be made for approved projects from the Kansas economic development highway fund. The requesting local

governmental unit shall enter into agreements with the secretary of transportation to repay the loans in 10 equal annual payments beginning on the third anniversary date of the initial disbursement for the project. Eligible expenditures include preliminary engineering, construction engineering, right-of-way acquisition, utility adjustments and construction costs;

(c) the secretary of transportation will make commitments to loans on a cash flow basis. Upon awarding the construction contract, the secretary shall make payments to the local unit for expenditures of preliminary engineering, right-of-way, and utility adjustments that have occurred prior to that date. Future loan payments shall be made on the basis of contractor payments and construction engineering costs; and

(d) loans from the fund must be secured by local ad valorem tax reduction fund, city and county revenue sharing fund, and special city and county highway fund receipts to the local governmental units.

New Sec. 16. Approval for project loans from the Kansas economic development highway fund shall be as follows:

(a) The secretary of transportation shall solicit project requests from local governmental units annually. These requests should include: General alignment and design concepts for the facility; the anticipated economic development benefits of the project; statement of concurrence of all public authorities involved in the proposed project; identification and legal authority of applicant; proposed project schedule; estimated project cost; and overall financing plan. The requesting authorities shall hold public hearings on the alignment and design concepts prior to requesting projects from the secretary;

(b) the secretary of transportation and the secretary of economic development shall review annually all project requests and recommend a program of projects to the governor prior to January 1 each year;

(c) projects shall be selected for the recommended program based on anticipated economic benefits, anticipated cash flow and

the viability of the loan;

(d) a minimum of 10% of the annual funds available to be obligated for projects shall be reserved for cities under 10,000 population. These funds may be released for other projects if requests are not received from those communities; and

(e) the secretary of transportation shall enter into written loan and project agreements with the local governmental units upon approval of the program of projects for each year.

New Sec. 17. The local governmental unit is responsible for all phases of any project funded by a loan from the Kansas economic development highway fund. Projects must meet current federal standards.

New Sec. 18. The secretary shall assure that all projects meet current federal standards before accepting a completed project. The secretary's responsibilities for all roads on the state highway system will apply to these projects upon final acceptance.

New Sec. 19. Any moneys which are not obligated after all eligible projects are funded in any year beginning on or after January 1, 1990, shall be transferred annually to the southern Kansas economic development freeway fund.

Sec. 20. K.S.A. 79-3408c, 79-3425, 79-3475a, 79-3487, 79-3491a, 79-34,104, 79-34,118, 79-34,126, 79-34,142 and K.S.A. 1985 Supp. 79-34,141 are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL NO. _____

By Representative Crowell

AN ACT concerning the taxation of motor-vehicle fuels; amending K.S.A. 1985 Supp. 79-3408 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1985 Supp. 79-3408 is hereby amended to read as follows: 79-3408. (a) ~~From and after 12:01 a.m. July 1, 1984,~~ A tax per gallon or fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141 and amendments thereto is hereby imposed on the use, sale, or delivery of all motor-vehicle fuels containing ~~less than 10% agricultural ethyl alcohol~~ by volume which is are used, sold or delivered in this state for any purpose whatsoever.

~~(b) Notwithstanding the provisions of subsection (d) of K.S.A. 79-34,141 and amendments thereto, from and after 12:01 a.m. on the effective date of this act a tax at the rate of \$.05 per gallon, or fraction thereof, less than that prescribed for motor-vehicle fuels under subsection (a) until July 1, 1985, and from and after July 1, 1985, a tax at the rate of \$.04 per gallon, or fraction thereof, less than that prescribed for motor-vehicle fuels under subsection (a) until July 1, 1986, and from and after July 1, 1986, a tax at the rate of \$.03 per gallon, or fraction thereof, less than that prescribed for motor-vehicle fuels under subsection (a), until July 1, 1987, and from and after July 1, 1987, a tax at the rate of \$.02 per gallon, or fraction thereof, less than that prescribed for motor-vehicle fuels under subsection (a), is hereby imposed on the sale, use or delivery of all motor-vehicle fuels containing 10% or more of agricultural ethyl alcohol by volume, which is used, sold or delivered in this state for any purpose.~~

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~~(e)~~ (b) Every retail pump for motor-vehicle fuels shall be conspicuously labeled to show the content and percentage of any ethyl alcohol or other alcohol combined or alone in excess of 1% by volume.

~~(d)~~ (c) Such taxes shall be paid but once. Such tax shall be computed on all motor-vehicle fuels received by each distributor, manufacturer or importer in this state and paid in the manner provided for herein, except that an allowance of 2.5% of the first 1,000,000 gallons received during each calendar year and 2% of the total gallonage in excess of 1,000,000 gallons received during each calendar year shall be made and deducted by the distributor to cover all ordinary losses in handling such motor-vehicle fuels. No such allowance shall be made on any motor-vehicle fuel exported from the state or sold to the United States of America or any of its agencies or instrumentalities as are now or hereinafter exempt by law from liability to state taxation. A distributor shall not be entitled to such allowance unless the principal business in which such distributor is engaged is the business of marketing motor-vehicle fuels or petroleum products. No such allowance shall be made for any motor-vehicle fuel sold or disposed of to a consumer in tank car, transport or pipeline lots.

~~(e)~~ (d) No tax is hereby imposed upon or with respect to the following transactions:

(1) The sale or delivery of motor-vehicle fuel by a duly licensed distributor, manufacturer or importer to another duly licensed distributor, manufacturer or importer.

(2) The sale or delivery of motor-vehicle fuel for export from the state of Kansas to any other state or territory or to any foreign country.

(3) The sale or delivery of motor-vehicle fuel to the United States of America and such of its agencies as are now or hereafter exempt by law from liability to state taxation.

(4) The sale or delivery of motor-vehicle fuel to a contractor for use in performing work for the United States or

those agencies of the United States above mentioned, provided such contractor has in effect with the United States or any such agency a cost-plus-a-fixed-fee contract covering the work.

(5) The sale or delivery of motor-vehicle fuel which is aviation fuel.

~~(f)~~ (e) Each distributor, manufacturer or importer shall make full reports and furnish such further information as the director may require with reference to all transactions upon which no tax is to be paid.

Sec. 2. K.S.A. 1985 Supp. 79-3408 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.