

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at  
Chairperson

9:00 a.m./~~p.m.~~ on January 27, 1987 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Robin Hunn, Legislative Research Department  
Bruce Kinzie, Revisor  
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Ray Petty, Advisory Committee on Employment of the Handicapped, Department  
of Human Resources  
Rick Kready, Gas Service/Kansas Power and Light Co.  
Ed DeSoignie, KDOT  
Jim Sullins, Kansas Motor Car Dealers Association

The Chairman said there had been several requests for committee bills and they would be taken under consideration today.

Ray Petty, Department of Human Resources, had a request for a clean-up bill to S.B. 429, which was passed last year. It is a good bill but needs a few changes. The first change was to clear up the misunderstanding about a person obtaining both a placard and a special license plate. There was also a problem and it was felt the "shopping list" could be deleted and the 200 feet criterion would be the primary consideration. The other changes would involve a violation of a parking space ramp and personalized license plates for the handicapped. A copy of his statement is attached. (Attachment 1).

A motion was made by Sen. Martin and was seconded by Sen. Vidricksen to introduce the bill as a committee bill. Motion carried.

Mr. Petty also had some concerns about enforcement at meters for people illegally using the placards. They now usually just get a ticket for overtime parking. There was also some discussion for placards for motorcycles. Staff was to check on this.

Rick Kready requested some changes in the Kansas Damage Prevention Act. The bill ran into some opposition in the House late in the session so there was a compromise. They are requesting changes when excavators fail to call before digging and also changes regarding improperly marking tolerance zones. He submitted a balloon amendment copy of the proposed legislation. A copy is attached. (Attachment 2).

A motion was made by Sen. Hayden and was seconded by Sen. Thiessen to have the proposed bill submitted as a committee bill. Motion carried.

Ed DeSoignie, KDOT, said the new Secretary of Transportation would be coming in soon and that the Department would have a bill request at that time. The Chairman reminded him of the deadline for introduction of bills.

Jim Sullins, Kansas Motor Car Dealers Association, said a Transportation sub-committee had discussed last year whether brokers should be allowed in the state of Kansas. Brokering is a concern of new car dealers in the state. Companies such as Amway are now getting into brokering.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on January 27, 1987

A motion was made by Sen. Doyen and was seconded by Sen. Francisco to introduce the proposed bill as a committee bill. Motion carried.

A suggestion was made that the committee should hear from the brokers on this issue.

Chairman Morris said he had received a request from Col. Cantwell of the Highway Patrol for a bill regarding the motor vehicle inspection fee. The fee is now going into the general fund and a question was raised as to the constitutionality because it is a revenue raising law. The Department of Revenue feels the statute should be changed. A motion was made by Sen. Frey and was seconded by Sen. Hayden that such a bill be drafted. Motion carried.

Robin Hunn submitted an explanation of the state highway funding which explains the receipts and transfers, the distribution between state and local governments and the federal aid for highways. She explained H.B. 2065 which includes changes to two revenue transfers from the State General Fund to highway funds. A copy of her statement is attached. (Attachment 3).

A motion was made by Sen. Francisco and was seconded by Sen. Thiessen to approve the Minutes of January 21. Motion carried.

Meeting was adjourned at 10:00 a.m.

DATE: 1-27-87

GUEST REGISTER  
SENATE  
TRANSPORTATION AND UTILITIES COMMITTEE

NAME	ORGANIZATION	ADDRESS
CHARLES BELT	WICHITA AUTO DEALERS ASSOC.	WICHITA
Dan Ramlow	Ks. Contractors Assn.	Topoka
Shelley Sutton	Ks. Engineering Soc.	Topoka
Rick Kready	KPL Gas Service	"
JIM SULLINS	Ks. Motor Car Dealers Assn	"
RON CALBERT	UNITED TRANSPORTATION UNION	NEWTON
Bill Green	KCC	TOPEKA
Spenn Coulter	Ks - Contractors Assoc	Topoka
Deb Miller	KDOT	Topoka
Dick Koentz	BRIDGE	Topoka
Ray Petty	KACEH DHR	Topoka
Bill Henry	Kansas Engineering Society	Topoka

ADVISORY COMMITTEE ON EMPLOYMENT  
OF THE HANDICAPPED1430 S.W. Topeka Avenue, Topeka, Kansas 66612-1877  
913-232-7828 (V/TDD) 567-0828 KANS-A-N

John Carlin, Governor

Larry E. Wolgast, Secretary

Testimony regarding handicapped parking presented to

Senate Transportation and Utilities Committee

by Ray Petty, Legislative Liaison, KACEH

January 27, 1987

Senate Bill 429, signed into law last year, made a number of changes to the handicapped parking law previously contained in K.S.A. 8-132(a). The new law is codified at K.S.A. 8-1,124 et. seq. (which by the way is not correctly referenced in the index). S.B. 429 originated in this committee following interim study #62 over the summer of 1985. We are pleased with the new law and appreciate the attention which this committee, and Senator Morris in particular, paid to this issue.

There are a few minor changes which require attention this session. I think you will find these requested changes minor and straightforward. Included in my handout this morning you will find a copy of the law, with suggested changes described on the right.

The first problem (see #1 on the second page of the law) is to overcome last session's misunderstanding about a person obtaining both a special license plate and a placard upon request. Representative Crowell made a floor amendment, which he believed would correct what he thought to be an ungrammatical construction in the bill. Instead it did away with a provision that had specifically been amended into the law in 1984. Senator Morris considered offering a motion not to concur on that amendment but decided against it in the interest of simplicity. Both Senator Morris and Representative Crowell agreed last year that this could easily be fixed.

The second issue is important. In defining "handicapped person" the previous law spoke of "mobility impairment" without limiting that to a consideration of walking ability. Testimony indicated that some applications were being approved for people with limited shoulder mobility, for example. We suggested the "200 feet" criterion in accordance with the PVA recommendation. But now we find that the new definition of "handicapped person" is being interpreted by the Department of Revenue in a way other than was intended.

"Travel[ing] unassisted more than 200 feet" is not being applied to the shopping list of conditions "including partial paralysis . . . rheumatism" but only to "or other debilitating condition" (see attached application form). For example, one condition for obtaining handicapped parking privileges is arthritis, another is rheumatism, etc. Therefore, inability to travel 200 feet unassisted is not taken into consideration at all unless the physician checks "other" (i.e. other debilitating condition) on the application form.

ATT. 1  
T&U 1/27/87

I spoke with Bill Edds (formerly with Revenue's legal department; now in the Revisor's office) who wrote an opinion on this issue for the Department of Revenue. Both he and Richard Vasquez, Chief of Titles and Registration, agreed that the shopping list could be deleted. That way the 200 feet criterion would be the primary consideration. I spoke also with Harold Turntine, who agreed that this interpretation was being followed by the department, and that such a change would be acceptable. By the way, I mentioned and have sent a copy of these proposals to Mr. Turntine and others at Revenue and none were objectionable to them.

A third issue is whether or not it is a violation of handicapped parking to block the adjacent wheelchair ramp, rather than the actual parking space itself. In my lay opinion, that ramp could easily be considered to be part of the space. But lay is not law. Perhaps a straightforward sentence describing this as a violation could be added, if you agree.

Fourth, we should make it explicit that a person can obtain a personalized handicapped parking plate. There are several good reasons to do this. First and foremost is the fact that such plates have been issued. I know of one in Topeka, and I saw another the other afternoon outside Wamego. When I scanned a printout of handicapped parking plates, no such plates could be found. I know that one plate was issued over five years ago, so it appears these are being listed among the personalized plates, not the special handicapped plates. That obviously is not good. I understand that Revenue has applied the same eligibility criteria in these exceptional cases, so that is apparently not a problem. But standardization is.

Aside from the fact that certain personalized license plates bearing the international wheelchair symbol are apparently being honored as official Kansas handicapped parking devices - a practice which is not legally sanctioned - the best reason to legalize the practice is enhanced revenue. (Not that this revenue source will rescue the recent social services cuts, mind you, but it will not hurt). I have the feeling that persons with disabilities are no more, no less vain than the population at large.

And finally I want to bring to your attention the fact that Hutchinson issues municipal handicapped parking devices. Persons using those devices have been ticketed in Topeka and Wichita - that was the reason I wrote the attached letter to the editor, the details of which need not be repeated here. I suppose that home rule would allow such a practice, but would appreciate your opinion on that. I assure you, like I did George Pyle, city manager of Hutchinson, that we are not trying to make a federal case out of this.

a:hp1-27

HANDICAPPED PARKING

8-1,124. Handicapped person, defined. As used in this act "handicapped person" means any individual with a severe visual or physical impairment ~~including partial paralysis, lower limb amputation, brain, heart condition, emphysema, arthritis, rheumatism or other debilitating~~ condition which limits such person's walking ability and results in an inability to travel, unassisted more than 200 feet, without the use of a wheelchair, crutch, walker, prosthetic, orthotic or other assistive device.

History: L. 1986, ch. 36, § 1; July 1.

8-1,125. License plates, placards and individual identification cards for handicapped. (a) Any Kansas resident who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person is a handicapped person or is responsible for the transportation of a handicapped person shall be issued a special license plate for any motor vehicle owned by such person or a temporary or permanent placard. Such placard shall be suspended immediately below the rear view mirror of any motor vehicle used for the transportation of a handicapped person so as to be maximally visible from outside the vehicle. In addition to the special license plate or permanent placard, the director of vehicles shall issue to the handicapped person an individual identification card which must be carried by the handicapped person when the motor vehicle being operated by or used for the transportation of such handicapped person is parked in accordance with the provisions of K.S.A. 1986 Supp. 8-1,126. The special license plates and placards shall display the international symbol of access to the physically handicapped.

(b) Special license plates issued pursuant to this section shall be issued for the same period of time as other license plates are issued or for the remainder of such period if an existing license plate is to be exchanged for the special license plate. There shall be no fee for such special license plates in addition to the regular registration fee.

(c) Except as otherwise provided in this section, placards and individual identification cards issued pursuant to this section shall be issued for such period of time as the person to whom issued continues to be a handicapped person or a person responsible for the transportation of a handicapped person, except that the secretary of revenue shall make a determination of continued eligibility for a special license plate or placard at least every three years from the original date of issuance of such license plate and placard. The secretary of revenue may adopt rules and regulations prescribing a fee for placards and individual identification cards issued pursuant to this section, however, such fee shall not exceed the actual cost of issuance thereof.

#s correspond to points raised in memorandum

② Removing the "shopping list" and leaving "individual with a severe visual or physical impairment or condition which limits ... 200 feet ..." removes the ambiguity over the applicability of the 200 foot criterion. (see application form; enclosed)

(referenced in #1)

Both plates and <sup>permanent</sup> placards require individual identification cards.

④ Special license plates may also be personalized license plates subject to the provisions of K.S.A. 8-132, including payment of the fee. [The wheelchair symbol would occupy one of the seven allowed characters. That could be handled by regulation and should not require amendment to 8-132 (see K.S.A. 8-132(c); attached)].

(d) On and after July 1, 1989, and every three years thereafter, the secretary of revenue shall change the color of placards and identification cards issued under this section. After the effective date of this act, permanent placards and any individual identification cards issued under this section shall be reissued every three years from the original date of issuance of such placards and individual identification cards.

(e) Beginning in the year in which new license plates are issued pursuant to subsection (b) of K.S.A. 8-132, and amendments thereto, a person submitting satisfactory proof that the disability, condition or impairment referred to in K.S.A. 1986 Supp. 8-1,124 is permanent in nature, and upon such person's request and payment of the fees referred to in subsections (b) and (c), such person shall be issued ~~a special license plate and individual identification card or a permanent placard and individual identification card.~~

both

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the handicapped person. Temporary placards shall be returned to the department of revenue upon the expiration of the placard or upon the death of the handicapped person. Special license plates shall be returned to the county treasurer to be exchanged for another license plate upon the death of the handicapped person.

History: L. 1986, ch. 36, § 2; July 1.

**8-1,126.** Parking privileges for handicapped. When a motor vehicle which bears a special license plate or placard issued pursuant to K.S.A. 1986 Supp. 8-1,125 is being operated by or used for the transportation of a handicapped person, such motor vehicle:

(a) May be parked in any parking space, whether on public or private property, which is clearly marked as being reserved for the use of handicapped persons or persons responsible for the transportation of a handicapped person, except a parking space on private property which is clearly marked as being reserved for the use of a specified handicapped person;

(b) may be parked for an unlimited period in any parking zone which is restricted as to the length of parking time permitted, except where stopping, standing or parking is prohibited to all vehicles, where parking is reserved for special types of vehicles or where parking would clearly present a traffic hazard; and

(c) shall be exempt from any parking meter fees of the state or any city, county or other political subdivision.

History: L. 1986, ch. 36, § 3; July 1.

① This was the original intent — that upon request, a person could obtain both a plate and a placard [see 1984 session laws, ch 30 § 1 (pursuant to House Bill 2646)]; enclosed]. The problem last year was due to the addition of ID cards for both plates and placards; BUT SEE 8-1,125 which already requires ID card. IF further clarification is needed, "In the case that both are issued, only one individual identification card shall be issued," — or something to that effect might be added to the end of 8-1,125(e).

**8-1,127.** Acceptable handicapped identification from other jurisdictions. Official handicapped identification devices issued by any other state, district, or territory subject to the laws of the United States, or any foreign jurisdiction, shall be recognized as acceptable identification in the state of Kansas. Motor vehicles bearing a valid device from such a jurisdiction shall be accorded the parking privileges contained in K.S.A. 1986 Supp. 8-1,126.

History: L. 1986, ch. 36, § 4; July 1.

**8-1,128.** Handicapped parking spaces; marking. (a) Notwithstanding the provisions of K.S.A. 8-2003, and amendments thereto, all designated handicapped parking spaces shall be clearly marked by vertically mounted signs bearing the international symbol of access. Such signs shall be displayed with the bottom of the sign not less than 32 inches above the surface of the roadway.

(b) As of January 1, 1987, any owner of private property available for public use establishing a new parking space for the handicapped or relocating an existing parking space for the handicapped, shall conform to section 4.6.3 of ANSI 117.1-1980, a published standard for specifications for making buildings and facilities accessible to and usable by physically handicapped people, which is available from the American national standards institute, 1430 Broadway, New York, N.Y. 10018.

History: L. 1986, ch. 36, § 5; July 1.

**8-1,129.** Unlawful parking in handicapped parking; penalties. (a) Except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a law enforcement officer or official traffic-control device, no person shall stop, stand or park a vehicle in any parking space designated as handicapped parking without having a special license plate, permanent placard or disabled veteran license plate and an individual identification card, or a valid temporary placard.

(b) Violation of subsection (a) is an unclassified misdemeanor punishable by a fine of not more than \$25.

(c) The provisions of subsection (a) shall be enforced by law enforcement officers on public and private property.

History: L. 1986, ch. 36, § 6; July 1.

③ Perhaps the following could be added here:

"Blocking an access ramp adjacent to a designated handicapped parking space shall also constitute unlawful parking."



**8-1,130.** Falsely obtaining handicapped identification; penalties. (a) Any person who willfully and falsely represents that such person has the qualifications to obtain a special license plate or permanent placard and individual identification card or temporary placard pursuant to this act shall be guilty of a class C misdemeanor.

(b) Any physician who willfully and falsely certifies that a person has the qualifications to obtain a special license plate or permanent placard and individual identification card or temporary placard pursuant to this act shall be guilty of a class C misdemeanor.

History: L. 1986, ch. 36, § 7; July 1.

**8-1,131.** Rules and regulations; handicapped parking. The secretary of revenue may adopt such rules and regulations necessary to carry out the provisions of this act.

History: L. 1986, ch. 36, § 8; July 1.

**8-1,132.** Act supplemental to 8-126 et seq. K.S.A. 1986 Supp. 8-1,124 through 8-1,131, shall be part of and supplemental to K.S.A. 8-126 *et seq.*, and amendments thereto.

History: L. 1986, ch. 36, § 9; July 1.



**KANSAS DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES  
TOPEKA, KANSAS 66626-0001**



**HANDICAP IDENTIFICATION PLACARD APPLICATION**

\$3.00 Fee

NOTE: Applicant must be a Kansas resident.

Name

Address

City 



 KANSAS ZIP

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Name of Handicapped Individual \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

**PHYSICIAN'S STATEMENT**

Attending physician must certify and sign the following:

I, the undersigned physician, certify that (Patient's Name) \_\_\_\_\_ is considered to be handicapped as per Kansas statutes thus qualifying for Handicapped parking privileges. Check applicable box(es):

Has a: ( ) severe visual impairment, ( ) partial paralysis, ( ) lower limb amputation, ( ) chronic heart condition, ( ) emphysema, ( ) arthritis, ( ) rheumatism, ( ) other\*: limited ability to travel unassisted more than 200 feet without the use of a wheelchair, crutch, walker, prosthetic, orthotic or other assistive device.

\*Please explain \_\_\_\_\_

Handicap has been diagnosed pertaining to this application as:

( ) PERMANENT \*( ) TEMPORARY

\*If temporary, indicate which months handicap will encompass.

From (Date) \_\_\_\_\_ To (Date) \_\_\_\_\_

Physician's Signature \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_, Kansas Zip \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

**PENALTY**

Any person who willfully and falsely represents him/herself as having the qualifications to obtain a special license plate or ID Placard card, or who falsely utilizes any parking privilege, shall be guilty of a class C misdemeanor, punishable by fines of \$500.00 and no more than 30 days in jail. (K.S.A. 8-132a) Violators may also be subject to additional penalties where imposed by city ordinance.



## INSTRUCTIONS

1. Application must be signed by the handicapped individual or representative.
2. Application should be completed and submitted to the Department of Revenue, Titles and Registration Bureau, State Office Building, Topeka, KS 66626-0001 with a \$3.00 fee in check or money order, payable to the Department of Revenue. (The \$3.00 charge is assessed to cover the \$2.00 fee for the Permanent Handicapped Placard and a \$1.00 fee for the Personal Handicapped Identification Card.)
3. Applicant may not be issued both the identification placard and a wheelchair license plate. If applicant is in receipt of a wheelchair plate, he/she must surrender the same before an identification placard will be issued.
4. Applicant may apply for only one (1) identification placard.
5. Handicap identification placard must be suspended from rear view mirror when in use and may be transferred from one vehicle to another.
6. Vehicles displaying handicap identification placards or tags are exempt from parking meter fees. Please check with local law enforcement authorities for other parking information.
7. Temporarily handicapped individuals will be issued one (1) Temporary Handicap Placard which must be returned upon expiration to the Department of Revenue, Titles and Registrations Bureau, State Office Building, Topeka, Kansas 66626-0001.
8. Permanently handicapped individuals will be issued one (1) Permanent Handicapped Placard and one (1) Personal Handicapped Card which must be carried by the person to whom assigned when using handicapped parking privileges. Both Handicapped Placard and Identification Card must be returned upon the death of individual to the Department of Revenue, Titles and Registrations Bureau, State Office Building, Topeka, Kansas 66626-0001.

## Hutch parking stickers carry no weight in Topeka

It came to my attention last week that vehicles bearing special parking permits issued by the city of Hutchinson have been ticketed for parking in handicapped parking slots in Topeka.

When I called and talked with your city manager, George Pyle, to find out about the policy, he informed me that he had also been contacted recently by someone who was ticketed in Wichita.

Since Hutchinson is the only city I know of in Kansas which issues a permit locally, I thought it might be a good idea to put a notice in the paper to make sure everyone understands the situation.

As of last year, Kansas law recognizes and honors the official handicapped parking devices of other states, territories, and foreign countries — but not municipalities.

### Western Front

The Western Front welcomes letters from readers. Your name and address must be given on the letter. A telephone number helps us verify the authenticity of each letter.

As far as I know, a city can honor whatever permits it chooses, so long as it honors the state-issued placards and license plates. But it is not the case that Hutchinson permits are valid in any other jurisdiction.

People who may legitimately deserve handicapped parking privileges can legally be ticketed if they attempt to use your local permit elsewhere. State-issued li-

cense plates and placards are valid throughout Kansas and much of the United States.

Sherry Youngberg, who handles the issuance of the permits for the city, told me that she routinely warns people that the privilege accorded by the permits applies only to Hutchinson.

Apparently that warning is sometimes going unheeded. Citizens of Hutchinson who need handicapped parking privileges outside the city should obtain either a special license plate or a placard, which hangs from the rear-view mirror, to avoid unnecessary parking tickets.

RAY PETTY  
legislative liaison  
Kansas Department of Human Resources  
Topeka

Hutchinson News  
1/18/87

HOUSE BILL No. 2666

By Special Committee on Transportation

Re Proposal No. 53

12-19

0017 AN ACT enacting the Kansas damage prevention act.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. As used in this act:

0020 (a) "Damage" means any impact or contact with an under-  
0021 ground facility, its appurtenances or its protective coating, or any  
0022 weakening of the support for the facility or protective housing  
0023 which requires repair;

0024 (b) "emergency" means any condition constituting a clear  
0025 and present danger to life ~~or property, or a customer service~~  
0026 outage;

health

0027 (c) "excavation" means any operation in which earth, rock or  
0028 other material on or below the ground is moved or otherwise  
0029 displaced by any means, except ~~agricultural activity other than~~

tilling the soil

0030 ~~that performed by a contractor, or railroad or road and ditch~~  
0031 ~~maintenance that does not change the original railroad grade,~~

existing

0032 ~~road grade or ditch flowline, or excavations on private, noncom-~~  
0033 ~~mmercial property when performed by the owner or occupant of~~  
0034 ~~such property; or all operations related to exploration, drilling,~~  
0035 ~~and production of crude oil and natural gas;~~

0036 (d) "excavator" means any person who engages directly in  
0037 excavation activities within the state of Kansas;

0038 (e) "facility" means any underground line, system or struc-  
0039 ture used for producing, gathering, storing, conveying, transmit-  
0040 ting or distributing communication, electricity, gas, petroleum,  
0041 petroleum products, hazardous liquids, water, steam, sewage or  
0042 any other similar commodities;

0043 (f) "marking" means the use of stakes, paint or other clearly

ATT. 2  
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0044 identifiable materials to show the field location of underground  
0045 facilities, in accordance with the resolution adopted August,  
0046 1984, by the utility location coordination council of the American  
0047 public work association;

0048 (g) "notification center" means a center operated by an orga-  
0049 nization which has as one of its purposes to receive notification  
0050 of planned excavation in a specified area from excavators and to  
0051 disseminate such notification of planned excavation to operators  
0052 who are members and participants;

a minimum of five underground operators participating, and has

0053 (h) "operator" means any person who owns or operates an  
0054 underground facility, except for any person who is the owner of  
0055 real property wherein is located underground facilities for the  
0056 purpose of furnishing services or materials only to such person or  
0057 occupants of such property;

0058 (i) "preengineered project" means a public project wherein  
0059 the public agency responsible for the project, as part of its  
0060 engineering and contract procedures, holds a meeting prior to  
0061 the commencement of any construction work on such project in  
0062 which all persons, determined by the public agency to have  
0063 underground facilities located within the construction area of the  
0064 project, are invited to attend and given an opportunity to verify  
0065 or inform the public agency of the location of their underground  
0066 facilities, if any, within the construction area and where the  
0067 location of all known and underground facilities are duly located  
0068 or noted on the engineering drawing as specifications for the  
0069 project;

0070 (j) "permitted project" means a project where a permit for the  
0071 work to be performed must be issued by a state or federal agency  
0072 and, as a prerequisite to receiving such permit, the applicant  
0073 must locate all underground facilities in the area of the work and  
0074 in the vicinity of the excavation and notify each owner of such  
0075 underground facilities;

0076 (k) "person" includes any individual, partnership, corpora-  
0077 tion, association, franchise holder, state, city, county or any  
0078 governmental subdivision or instrumentality of a state and its  
0079 employees, agents or legal representatives;

0080 (l) "tolerance zone" means the area within 24 inches of the

0081 outside dimensions ~~on both sides of an underground facility and~~  
0082 ~~±2 inches in vertical depth;~~

in all vertical and horizontal directions

0083 (m) "working day" means every day, except Saturday, Sun-  
0084 day or a legally proclaimed local, state or federal holiday.

0085 Sec. 2. An excavator shall not engage in excavation near the  
0086 location of any underground facility without first having ascer-  
0087 tained, in the manner prescribed in this act, a location of all  
0088 underground facilities in the proposed area of the excavation.

0089 Sec. 3. (a) An excavator shall serve notice of intent of ex-  
0090 cavation at least two full working days, but not more than 10  
0091 working days before commencing the excavation activity, on  
0092 each operator having underground facilities located in the pro-  
0093 posed area of excavation.

0094 (b) The notice of intent of excavation shall contain the name,  
0095 address and telephone number of the person filing the notice of  
0096 intent, the name of the excavator, the date the excavation activity  
0097 is to commence and the type of excavation being planned. The  
0098 notice shall also contain the specific location of the excavation if  
0099 it is to take place within the city limits or the specific quarter  
0100 sections in all other areas within the state.

0101 (c) The provisions of this section shall not apply to a preen-  
0102 gineered project or a permitted project.

except that the excavators shall be required to give notification  
in accordance with this section prior to starting such project.

0103 ~~Sec. 4. - Unless an operator is a member of or a participant in a~~  
0104 ~~notification center which has filed a statement with the county~~  
0105 ~~clerk, pursuant to this act, all operators having underground~~  
0106 ~~facilities within a county shall have on file with the county clerk~~  
0107 ~~in such county a notice that such operator has underground~~  
0108 ~~facilities located within the county and the address and the~~  
0109 ~~telephone number of the person or persons from whom informa-~~  
0110 ~~tion about the location of such underground facilities may be~~  
0111 ~~obtained.~~

0112 ~~Sec. 5. - (a) The county clerk shall charge and collect fees~~  
0113 ~~from all operators filing notices pursuant to section 4 of this act~~  
0114 ~~and notification centers filing statements pursuant to section 6 of~~  
0115 ~~this act in the amount of \$25 for filing of each notice or statement.~~

0116 ~~-(b) All fees charged by the county clerk pursuant to this act~~  
0117 ~~shall be due and payable to the general fund of the county in~~

0118 which they are assessed on January 1 of each year.

0119 (c) - The county clerk shall maintain a current list of all opera-  
0120 tors and notification centers on file pursuant to this act and shall  
0121 make copies of such lists available upon payment of a fee not to  
0122 exceed \$5 per request.

0123 Sec. 6 (a) This act recognizes the value of and encourages  
0124 and authorizes the establishment of notification centers.

4.

0125 (b) Upon the establishment of a notification center in com-  
0126 pliance with ~~subsection (d)~~, notification, as required by section  
0127 3, to operators who are members of the notification center shall  
0128 be given by notifying the notification center by telephone the  
0129 content of such notification as required by section 3.

this act

0130 (c) All operators who have underground facilities within the  
0131 defined geographical boundary of the notification center shall be  
0132 afforded the opportunity to become a member of the notification  
0133 center on the same terms as the original members.

0134 ~~(d) - The management of a notification center shall file with~~  
0135 ~~the county clerk of each county, within which the notification~~  
0136 ~~center operates, a statement that the notification center is serving~~  
0137 ~~the respective county, a list of the operators in the county who~~  
0138 ~~are members or participants in the notification center and who~~  
0139 ~~have underground facilities located within the county and the~~  
0140 ~~telephone number and mailing address of the notification center.~~

0141 ~~(e)~~ A suitable record shall be maintained by the notification  
0142 centers to document the receipt of notices from excavators as  
0143 required by this act.

(d)

0144 Sec. 7 (a) An operator served with notice shall, in advance of  
0145 the proposed excavation, unless otherwise agreed between the  
0146 parties, by marking, flagging or by other acceptable methods,  
0147 inform the excavator of the tolerance zone of the underground  
0148 facilities of the operator in the area of the planned excavation.  
0149 Such marking shall be done in the manner as to reasonably  
0150 enable the excavator to employ hand-dug test holes or other  
0151 means of establishing the location of the underground facilities  
0152 in advance of the excavation. If the location of the underground  
0153 facilities cannot be established, the excavator shall inform the  
0154 operator who shall promptly provide the necessary assistance to

5.

non-mechanical digging



0155 determine the location of the underground facilities in advance  
0156 of the excavation activity.

0157 (b) If the operator notifies the excavator that it has no under-  
0158 ground facilities in the area of the planned excavation, or if the  
0159 operator fails to respond, the excavator may proceed and shall  
0160 not be liable for any direct or indirect damages resulting from  
0161 contact with the operator's facilities.

or improperly marks the tolerance zone for the facilities,

0162 Sec. ~~8~~ In the case of an emergency involving danger to life,  
0163 health or property, or which requires immediate correction in  
0164 order to continue the operation of an industrial plant, or to assure  
0165 the continuity of public utility service, excavation, maintenance  
0166 or repairs may be made without using explosives, if notice and  
0167 advice thereof, whether in writing or otherwise, is given to the  
0168 operator or notification center as soon as reasonably possible.

; however, nothing in this act is meant to hold any excavator harmless from liability in those cases of gross negligence or willful and wanton conduct.

6.

0169 Sec. ~~9~~ This act shall not be construed to authorize, affect or  
0170 impair local ordinances, charters or other provisions of law  
0171 concerning excavating or tunneling in a public street or highway  
0172 or private or public easement.

7.

0173 Sec. ~~10~~ Upon receiving the information, as provided in sec-  
0174 tion ~~7~~, an excavator shall exercise reasonable care as may be  
0175 necessary for the protection of any underground facility in and  
0176 near the construction area when working in close proximity to  
0177 any such underground facility.

8.

5

0178 Sec. ~~11~~ When any contact with or damage to any under-  
0179 ground facility occurs, the operator shall be informed immedi-  
0180 ately by the excavator. Upon receiving such notice, the operator  
0181 shall dispatch personnel to the location as soon as practicable to  
0182 provide necessary temporary or permanent repairs of the dam-  
0183 age. If a serious electrical short is occurring, or dangerous fluids  
0184 or gases are escaping from a broken line, the excavator shall  
0185 immediately inform emergency personnel.

9.

0186 Sec. ~~12~~ (a) In a civil action in a court of this state when it is  
0187 shown by competent evidence that damage to the underground  
0188 facilities of an operator resulted from excavation activities and  
0189 that the excavator responsible for giving notice of intent to  
0190 excavate failed to give such notice, there shall be a rebuttable  
0191 presumption that the excavator was negligent for failing to give

10.

0192 such notice.

0193 (b) The provisions of subsection (a) shall not apply if the  
0194 operator whose underground facilities are damaged fails to file  
0195 with ~~the county clerk or~~ a notification center.

0196 Sec. 13. This act shall be known and may be cited as the  
0197 Kansas damage prevention act. 11.

0198 Sec. 14. If any provision of this act or the application thereof  
0199 to any person or circumstance is held invalid, the remainder of  
0200 the act and the application of such provision to other persons or  
0201 circumstances shall not be affected thereby.

0202 Sec. 15. This act shall take effect and be in force from and  
0203 after its publication in the statute book. 12.

13.

S. T#4  
1/27/87  
Attachment 3

TABLE 1  
State Highway Fund

	<u>FY 1983</u>	<u>FY 1984</u>	<u>FY 1985</u>	<u>FY 1986</u>	<u>Gov. Rec. FY 1987</u>	<u>Request FY 1988</u>	<u>Gov. Rec. FY 1988</u>
<u>Receipts</u>							
State Fuels Taxes	\$ 62,116,648	\$ 66,035,477	\$ 72,257,656	\$ 73,629,721	\$ 77,500,000	\$ 79,900,000	\$ 79,500,000
Motor Vehicle Reg. Fees	64,970,309	67,346,270	70,061,282	70,097,790	70,000,000	70,000,000	70,000,000
Drivers License Fee	2,597,334	2,943,744	3,096,398	3,194,141	4,139,272	4,139,272	4,139,272
Other State Sources	4,267,937	3,301,802	5,076,712	3,457,519	1,887,718	1,584,522	1,584,522
Subtotal - State Sources	<u>\$133,952,228</u>	<u>\$139,627,293</u>	<u>\$150,492,048</u>	<u>\$150,379,171</u>	<u>\$153,526,990</u>	<u>\$155,623,794</u>	<u>\$155,223,794</u>
Federal Aid	53,701,539	77,570,804	124,749,567	148,127,176	188,317,630	108,440,415	108,440,415
Total Receipts	<u>\$187,653,767</u>	<u>\$217,198,097</u>	<u>\$275,241,615</u>	<u>\$298,506,347</u>	<u>\$341,844,620</u>	<u>\$264,064,209</u>	<u>\$263,664,209</u>
<u>Transfers</u>							
Sales Tax Transfer	\$ 0	\$ 5,013,362	\$ 10,498,566	\$ 16,054,289	\$ 27,700,000	\$ 38,500,000	\$ 19,980,000
Motor Carrier Excess Fees	2,124,290	1,567,416	3,968,202	3,053,676	3,050,000	3,050,000	2,830,000
Maint. Transfer - Freeway Fund <sup>1</sup>	5,720,425	6,677,595	6,508,687	6,687,072	7,551,682	7,843,348	7,843,348
Proj. Alloc. Reimbursement <sup>2</sup>	0	9,230,016	9,933,205	4,423,297	2,561,000	3,327,000	3,327,000
Freeway Fund Transfer - 1983 Legis. <sup>3</sup>	0	40,000,000	20,000,000	5,000,000	0	0	0
Misc. Transfers	186,159	422,257	599,705	363,714	477,552	476,096	476,096
Transfers Out <sup>4</sup>	(31,207,894)	(29,092,502)	(17,474,594)	(19,426,933)	(22,843,037)	(26,283,573)	(25,643,258)
Total - Transfers	<u>\$(23,177,020)</u>	<u>\$ 33,818,144</u>	<u>\$ 34,033,771</u>	<u>\$ 16,155,115</u>	<u>\$ 18,497,197</u>	<u>\$ 26,912,871</u>	<u>\$ 8,813,186</u>
TOTAL RECEIPTS AND TRANSFERS	<u>\$164,476,747</u>	<u>\$251,016,241</u>	<u>\$309,275,386</u>	<u>\$314,661,462</u>	<u>\$360,341,817</u>	<u>\$290,977,080</u>	<u>\$272,477,395</u>

- 1) The State Highway Fund is reimbursed from the State Freeway Fund for the estimated cost of maintenance on the state freeway system.
- 2) The State Highway Fund is reimbursed for certain costs incurred in conjunction with construction projects funded from the State Freeway Fund, the State Freeway Construction Fund, and the Restricted Fund (used for city and county federal aid projects).
- 3) The 1983 Highway Finance Bill provided for transfers in FY 1984, FY 1985, and FY 1986 to increase resources in the State Highway Fund and reduce large balances in the State Freeway Fund.
- 4) Until FY 1985, the Kansas Highway Patrol was funded primarily from the State Highway Fund. The Department of Revenue's Division of Vehicles continues to be funded from the State Highway Fund.

TABLE 2

STATE AND FEDERAL RESOURCES FOR HIGHWAY FINANCE\*  
 DISTRIBUTION BETWEEN STATE AND LOCAL GOVERNMENTS  
 (Dollar Amounts in Thousands)

Type of Revenue	State		Locals		Total FY 1986
	Amount FY 1986	% of Tot.	Amount FY 1986	% of Tot.	
Motor Fuel Tax	\$ 90,233	59.5	\$ 61,419	40.5	\$ 151,652
Federal Reimbursement For Projects	152,378	78.5	41,688	21.5	194,066
Motor Vehicle Registration Fees	70,098	100.0	0	0.0	70,098
Drivers License Fees	3,194	100.0	0	0.0	3,194
Sales Tax Transfer from SGF	16,054	100.0	0	0.0	16,054
Motor Carrier Excess Funds	3,054	100.0	0	0.0	3,054
Motor Carrier Property Tax	0	0.0	7,442	100.0	7,442
Interest Income	21,250	100.0	0	0.0	21,250

\* The table reflects only major state and federal revenue sources; not all revenue sources or transfers are shown.

Z86-245.B

TABLE 3

DISTRIBUTION OF STATE MOTOR FUEL TAXES TO  
KANSAS DEPARTMENT OF TRANSPORTATION  
AND LOCAL GOVERNMENTS

<u>Fiscal Year</u>	<u>State</u>	<u>% of Total</u>	<u>Local</u>	<u>% of Total</u>
1977	\$ 79,315	67.9	\$ 37,437	32.1
1978	83,076	68.3	38,593	31.7
1979	86,010	68.4	39,812	31.6
1980	81,904	68.9	37,002	31.1
1981	78,916	68.8	35,717	31.2
1982	80,190	68.9	36,225	31.1
1983	79,417	68.9	35,869	31.1
1984	82,470	57.6	60,776	42.4
1985	88,551	59.5	60,274	40.5
1986	90,233	59.5	61,419	40.5
1987 Est.*	95,000	59.5	64,600	40.5
1988 Est.*	97,500	59.5	66,300	40.5

\* Based on November, 1986 consensus estimates.

Z86-245.D

TABLE 4

## FEDERAL AID FOR HIGHWAYS

KDOT receives an annual apportionment of federal aid for highways. In recent years, this amount has then been reduced by an obligation ceiling which limits the amount of actual obligations for federal reimbursement that KDOT can incur in a given fiscal year. KDOT, in turn, allocates an amount of this apportionment to local governments. Federal law requires certain sharing of federal aid for roadways not on the state highway system. Outlined below is a summary of the required allocations to off system (local) projects and the actual allocations that KDOT has used in the past.

<u>Type of Federal Aid</u>	<u>Required Allocation to Locals</u>	<u>KDOT Actual Allocation</u>
Secondary	50%	80%
Bridge	15	45
Urban	100	100

**Current Status of Federal Highway Funding.** Congress adjourned in October, 1986 without enacting a law to reauthorize funding for federal highway programs, which expired when the federal fiscal year ended. While states may continue to spend unobligated balances allocated in prior years, no new funds will be apportioned until a new bill is passed. In response to the failure of Congress to reauthorize a federal highway bill, most states have had to delay or cancel projects planned for the 1987 construction season. As some states have greater unobligated balances than others, the lack of a new federal bill has had varying effects. In addition, as federal funds are apportioned by category of project (primary, secondary, bridge, urban, and interstate), some types of projects may be more affected than others, if there is less unobligated balance for certain categories.

In Kansas, the status of the federal program has resulted in the delay of a number of projects. According to national statistics, Kansas had an unobligated balance of federal aid of \$108.1 million for federal FY 1987; however, that balance is only 61 percent of what Kansas would have received in federal aid had the federal program been reauthorized at the 1986 level. Kansas has not been affected as dramatically as some other states; nationally, the unobligated balances represent only approximately 47 percent of what would have been received under the 1986 level of funding. The several categories of federal aid have been affected to varying degrees in Kansas. As of November, seven county federal aid-secondary projects, one city-federal aid urban, bridge projects in 12 counties and eight cities, and 14 state system projects have been postponed, for an estimated total of \$50.7 million. Projects were "de-programmed" or postponed based on their priority ratings developed by KDOT, with exceptions if a project was planned for a letting within two months or if a project was a second phase of a project already started. Additional projects will be delayed if a new federal highway bill is not passed in the early months of 1987.

TABLE 5

GOVERNOR'S RECOMMENDATION -- REVENUE TRANSFER TO THE  
STATE HIGHWAY FUND

The Governor recommends a change in the revenue transfer from the State General Fund to the State Highway Fund.

The Governor proposes two changes:

1. Reduce the base on which the transfer amount is calculated to 3 cents of the 4 cents sales tax.
2. Change the distribution of the transfer from daily to quarterly, with only three-quarters of transfer in FY 1988.

	FY 1988 (In Thousands)
Current consensus estimate of transfer	\$ 35,830
Governor's recommended transfer	
Change to quarterly transfer	\$ (6,892)
Change to 3 cent sales tax base	<u>\$ (8,958)</u>
Subtotal -- recommended reductions	<u>\$ (15,850)</u>
Governor's recommended transfer	<u><u>\$ 19,980</u></u>

Five-Year Effect of Governor's Recommendation

1. Assume sales tax receipts growth of 1 percent annually.  
(Dollar Amounts in Thousands.)

	<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>Five-Year Effect</u>
Projected With Gov. Rec. Change	\$ 27,700	\$ 19,980	\$ 32,570	\$ 32,895	\$ 33,224	\$145,969
Projected With Current Law	27,700	35,830	43,426	43,860	44,299	195,115
Difference	<u>\$ 0</u>	<u>\$(15,850)</u>	<u>\$(10,857)</u>	<u>\$(10,965)</u>	<u>\$(11,075)</u>	<u>\$(49,146)</u>

2. Assumes sales tax receipts growth of 3.5% annually  
(Dollar Amounts in Thousands.)

Projected With Gov. Rec. Change	\$ 27,700	\$ 19,980	\$ 33,376	\$ 34,544	\$ 35,753	\$150,952
Projected With Current Law	27,700	35,830	44,501	46,058	47,671	201,760
Difference	<u>\$ 0</u>	<u>\$(15,850)</u>	<u>\$(11,125)</u>	<u>\$(11,515)</u>	<u>\$(11,918)</u>	<u>\$(50,808)</u>

TABLE 6

HOUSE BILL NO. 2065

H.B. 2065 includes changes to two revenue transfers from the State General Fund to highway funds.

1. The bill would freeze revenue transfers from the State General Fund to the State Highway Fund at the FY 1986 level for FY 1987 and FY 1988. (Reduction of \$11.7 million in FY 1987 and \$19.8 million in FY 1988.)
2. The bill would freeze transfers from the State General Fund to the Special City and County Highway Fund at the FY 1986 level for FY 1988. (Reduction of \$1.8 million in FY 1988.)

A. Five-Year Effect of H.B. 2065 on State Highway Fund

1. Assume sales tax receipts growth of 1% annually. (Dollar amounts in Thousands)

	<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>Five-Year Effect</u>
Projected With H.B. 2065 Change	\$ 16,054	\$ 16,054	\$ 43,426	\$ 43,860	\$ 44,299	\$163,693
Projected With Current Law	27,700	35,830	43,426	43,860	44,299	195,115
Difference	<u>\$(11,646)</u>	<u>\$(19,776)</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$(31,422)</u>

2. Assumes sales tax receipts growth of 3.5% annually. (Dollar amounts in Thousands)

Projected With H.B. 2065 Change	\$ 16,054	\$ 16,054	\$ 44,501	\$ 46,058	\$ 47,671	\$170,338
Projected With Current Law	27,700	35,830	44,501	46,058	47,671	201,760
Difference	<u>\$(11,646)</u>	<u>\$(19,776)</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$(31,422)</u>

B. H.B. 2065 Effect on Special City and County Highway Fund

	<u>FY 1987 (est.)</u>	<u>FY 1987 (actual)*</u>	<u>FY 1988</u>
H.B. 2065	\$9,914	\$10,289	\$ 7,441
Current Law	9,914	10,289	9,275
Difference	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$(1,834)</u>

\* Note: FY 1987 actual receipts were \$375,000 greater than estimated.



## MOTOR FUEL TAXES

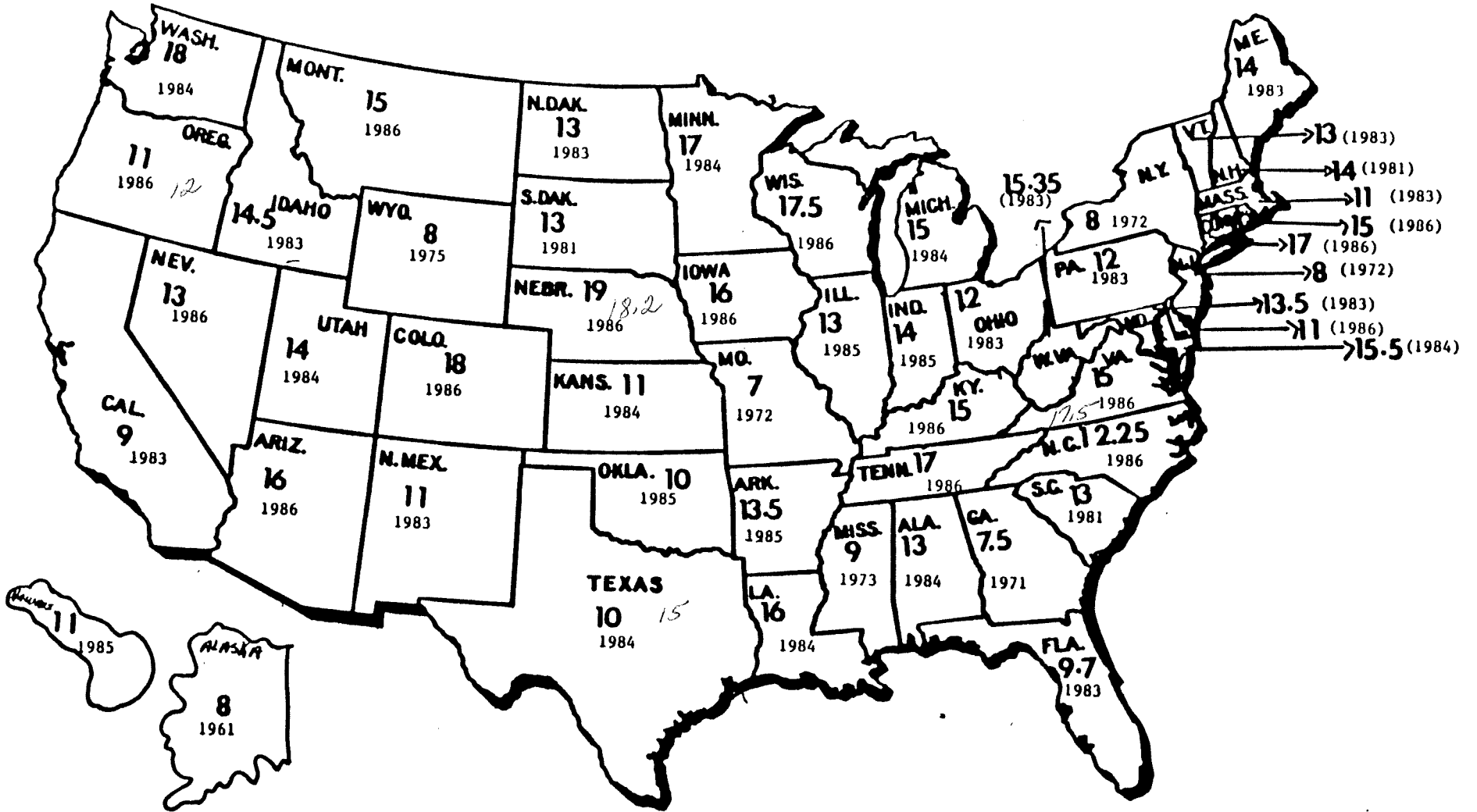
	<u>Rate</u>
Gasoline	11¢
Gasohol	8¢*
Diesel	13¢
LPG	10¢

\* Under K.S.A. 79-3408, the gasohol rate will increase to 9 cents on July 1, 1987. For FY 1987, consensus estimates assume that in FY 1987, 15 percent of total gasoline and gasohol usage will be from gasohol, and that this concentration ratio will drop to 10 percent in FY 1988. In FY 1985, the gasohol concentration ratio was 21.9 percent, and in FY 1986 it was 22.1 percent.

	<u>Total Net Fuel Tax Receipts (000)</u>	<u>Percent Change</u>
FY 1985	\$148,825	--
FY 1986	151,652	1.9
FY 1987	159,600	5.2
FY 1988	163,800	2.6

B87-24.a/RH

STATE GASOLINE TAXES EFFECTIVE 7/1/86  
¢/gallon



\*In some cases, tax is levied as a percent of cost

Date shown is year tax rate became effective

## MEMORANDUM

Kansas Legislative Research Department

November 25, 1986

TRANSFERS FROM STATE GENERAL FUND TO  
STATE HIGHWAY FUND UNDER 1983 H.B. 2566

Part of the highway finance package enacted by the 1983 Legislature (H.B. 2566) requires a transfer from the State General Fund to the State Highway Fund of a specified portion of state sales tax receipts attributable to sales of new and used motor vehicles. Unless changed by the Legislature, that portion is 9.19 percent of such receipts multiplied by the following fractions:

5/42 in FY 1984  
10/42 in FY 1985  
15/42 in FY 1986  
20/42 in FY 1987  
25/42 in FY 1988  
30/42 in FY 1989 and thereafter

The 9.19 figure was the estimated percentage for FY 1984 of sales tax revenue attributable to sales of motor vehicles when H.B. 2566 was under consideration. (The Department of Revenue has estimated that the figure for FY 1984 was higher, i.e., 10.02 percent.) However, the 1983 law also requires the Secretary of Revenue, on or before each December 1, to determine such percentage based on estimated sales tax receipts in the ensuing fiscal year and to certify that percentage to the directors of the Division of the Budget and the Legislative Research Department.

We have received that certification from the Secretary of Revenue for FY 1988 and his estimate is that 10.16 percent of sales tax receipts to be credited to the General Fund will come from sales of new and used motor vehicles. Shown below are the actual transfers in FYs 1984-1986, the estimated transfer in FY 1987 based on the 9.19 percent and 20/42 factors, and the estimated transfers in FY 1988 based on present law (9.19 percent and 25/42) and on 10.16 percent and 25/42.

	Transfer Factors	Transfer (\$000)
Actual FY 1984	9.19% and 5/42	\$ 5,013
Actual FY 1985	9.19% and 10/42	10,499
Actual FY 1986	9.19% and 15/42	16,054
Estimated FY 1987	9.19% and 20/42	27,700
Estimated FY 1988	9.19% and 25/42	35,830
Estimated FY 1988	10.16% and 25/42	39,612

With no change in the law, the transfer from the General Fund will increase by an estimated \$8.1 million from FY 1987 to FY 1988. The

increase would be \$11.9 million if the law were amended to use the 10.16 percent figure recently certified by the Secretary of Revenue. Thus, the policy decision is whether to amend the 1983 legislation or to let the factors remain as they are.

Note: Part of the large increase between FYs 1986 and 1987 is due to the increase in the sales tax rate from 3 percent to 4 percent.

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