

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

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

9:07 a.m./~~p.m.~~ on March 26, 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
Bruce Kinzie, Revisor
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Robert Beach, McClouth
Linda Beach, McClouth
Officer Dan Carney, City of Overland Park
Karen Arnold-Berger, Assistant Attorney, City of Overland Park
John Smith, Department of Revenue
John Bottenberg, Kansas Ethanol Association
Rep. E. Shore
Ed DeSoignie, Kansas Department of Transportation
Bill Barker, Attorney, Kansas Motor Carriers Association

Hearing on H.B. 2302 - Motorized bicycles, drivers' licenses.

Robert Beach, McClouth, said he was in favor of the bill because too many young people are taking motorized vehicles out in traffic. This is the same as a loaded gun. They are on city streets everyday and they have no restrictions. Police officers are helpless to do anything. They should be licensed.

Linda Beach, McClouth, said people driving a motorized bicycle should have to pass a test. They should be licensed. It is dangerous to have them on the streets.

Officer Dan Carney, City of Overland Park, said over the years the bicycles have changed to small motor scooters and it is really closer to a motorcycle than a bicycle and should be dealt with accordingly. The same rules now apply to mopeds as for bicycles. Since mopeds are motorized as a motorcycle they should be treated the same way and licensed. Young and inexperienced drivers are becoming a part of traffic and they have not passed a driver's test and carry no insurance. These mopeds do not even have a brake light.

He said he had personally seen three serious injuries with mopeds in Overland Park but did not have any statistics on accidents, however the number will probably increase as the number of mopeds increase. His position paper on mopeds is attached. (Att. 1).

Karen Arnold-Berger, Assistant Attorney, City of Overland Park, said the city had passed some requirements for mopeds such as insurance requirements, requiring brake lights, eye protection, and limit them to certain roads to keep them away from heavy traffic but they can't do anything about requiring a drivers' license and they feel a driving test should be required.

John Smith, Department of Revenue, said they had some concerns that a person who has lost his drivers' license could still get a moped license and what would happen to all the people that are already driving mopeds - would they be grandfathered in?

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,

room 254-E, Statehouse, at 9:07 a.m. ~~xxx~~ on March 26, 1987.

Hearing on H.B. 2491 - Motor fuel, ethyl alcohol incentive fund.

Rep. Shore said the subsidy on gasohol rewards all producers, not only Kansas producers and this bill would be an incentive to produce ethanol in the state of Kansas. It is inevitable that sooner or later more ethanol will be used, not only to replace lead in gasoline but in various forms of cleaning up the environment. This bill is an attempt to keep a foot in the door for this fledgling industry. A copy of his statement is attached. (Att. 2).

John Bottenberg, Kansas Ethanol Association, spoke in favor of H.B. 2491 and said this bill would repeal the fuel tax rate to gasohol and replace that subsidy with a subsidy to ethanol producers. This would be made to Kansans rather than to going to out-of-state producers, which is now the case with the largest portion of benefits. This bill is an economical development proposal and would keep money and jobs in Kansas. He had some recommended changes which are included in his statement. A copy of his statement is attached. (Att. 3). He also submitted figures for Kansas Fuel Ethanol Sales for FY86, FY87 and FY88 as projected by Information Resources, Inc. A copy is attached. (Att. 4).

Ed DeSoignie, KDOT, said this bill eliminates the gasohol tax subsidy and replaces it with an incentive fund to Kansas ethyl alcohol producers at \$.20 per gallon of ethyl alcohol. The Department is neutral on this bill but he did have some comments pertaining to the level of funding and the method or mechanism for funding. A copy of his statement is attached. (Att. 5).

Action on H.B. 2526 - Liens for providing wrecker or towing services.

Bruce Kinzie had some amendments to H.B. 2526 which had been discussed previously. (Att. 6). He said all parties involved had been contacted and had agreed to the amendments. A motion was made by Sen. Frey and was seconded by Sen. Bond to adopt the proposed amendments. Motion carried.

There was some discussion about the previous day's testimony from Mike Santos, City of Overland Park concerning due process and that the money collected which exceeded the towing charges should go to the city fund.

Bill Barker, Attorney, Kansas Motor Carriers Association, said they could not identify any due process problems. It is already handled under current law and this law would not change that.

The Committee discussed the money collected that would exceed the towing charges, and since it presently goes to the county they felt no need to change that in this bill.

A motion was made by Sen. Frey and was seconded by Sen. Norvell to recommend H.B. 2526, as amended, favorably for passage. Motion carried.

Meeting was adjourned at 10:00 a.m.

DATE: 3-26-87
254-E
9:07.

GUEST REGISTER
 SENATE
 TRANSPORTATION AND UTILITIES COMMITTEE

NAME	ORGANIZATION	ADDRESS
Kaun Arnold-Burger	City of Overland Park	8500 Santa Fe
DANIEL A. CARNEY	CITY OF OVERLAND PARK	8500 SANTA FE
Olav Steppert	McGill + Assoc.	Topeka
Nancy Welsh	Douglas County Treasurer	Lawrence
Nancy Weeks	Haskell Co Treas	Sublette
Donna Shultz	Pratt County	Pratt
Stan Ransom	High Plains Corp.	Colwich, Ka.
Glenn Cogswell	SMOOT Grain Co.	Topeka, Ks.
ART SKOLNESS	High Plains Corp	Polwich, Ka.
Ray Friend	Ks. Ethanol Association	Wichita, Ks
Robert Beach		McLOUTH Ks.
Linda J Beach		McLoath Ks.
Larry Brown	Browns Super Sewing	Topeka
Don Buckley	Overland Tow Serv Inc	Overland Park
Gary Taylor	Hercules Wrecker	Lawrence, Ks
Tom Whitaker	Ks Motor Carriers Assn.	Topeka, Ks
JOHN C. BOTTENBERG	Ks Ethanol Assn	TOPEKA
William Barber	A Harney	Topeka
Mary E. Turington	Kans. Motor Carriers Assn	Topeka
John W. Smith	Topeka Dept of Revenue	Topeka
Pat Barnes	Ks Motor Car Dealers Assn	Topeka

MOPEDS:

Current Problems

1. Driver's License:

- A. Moped operator is not required to pass a driving test to obtain a driver's license.
- B. K.S.A. 8-235(D) permits persons age 14 or older to obtain a driver's license restricted to moped operation. This allows young and inexperienced juveniles to become part of traffic.

2. Insurance:

- A. mopeds are not required to be insured, as they are not motor vehicles. (See definition of motor vehicle and K.S.A. 40-3104.)

3. Traffic Hazard:

- A. Size of moped makes it less visible to other motorists.
- B. A moped, by definition, must have a maximum design speed of no more than 30 mph. On streets where normal traffic flow is greater than 30 mph, a moped necessarily creates an impeding situation.
- C. Many vehicles registered as mopeds are capable of speeds greater than 30 mph. (e.g., Honda Aero 50, tested by Patrolman Carney, Overland Park Police Department, attained a speed of 38 mph on an uphill grade.) Thus, moped operators are often travelling at speeds higher than that considered by the State to be safe for a moped.
- D. Mopeds are often ridden by two subjects causing an extremely unstable situation.

4. Equipment:

- A. Kansas Statute does not require eye protection for moped operators.
- B. Kansas Statute does not require brake lights or turn signals on mopeds.

5. General Problem:

Over the past several years mopeds have changed from bicycles with helper motors to small motor scooters. The moped, as it is currently manufactured is closer to being a motorcycle than a bicycle and should be dealt with accordingly. Currently K.S.A. and O.P.M.C. apply bicycle rules to motorized bicycles or mopeds. For example, a moped operator is required by law to ride close to the right side of the road as is a bicyclist. Obviously, moped operators do not currently comply with this rule. The reason is clear, the moped, as actualized today is a part of traffic like a motorcycle. Therefore, the requirements to license, insure and equip mopeds and their riders should be raised to protect the same.

EUGENE L. SHORE

SENATE TRANSPORTATION and UTILITIES COMMITTEE: Testimony for 3/26/87.

PROPONENT FOR HB -2491

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE I APPRECIATE THE OPPORTUNITY TO MAKE A BRIEF STATEMENT ON HB-2491. WHILE THIS IS NOT MY BILL, I DID SERVE AS CHAIRMAN OF THE SUBCOMMITTEE WHICH WORKED THE BILL IN THE HOUSE AND BROUGHT IT TO ITS PRESENT FORM. I WILL MAKE A BRIEF STATEMENT ABOUT THE CURRENT FORM OF THE BILL AND THEN WILL ATTEMPT TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

CURRENT LAW ALLOWS THREE CENTS PER GALLON LESS TAX TO BE COLLECTED ON GASOHOL THAN ON GASOLINE. THIS REDUCES TO TWO CENTS PER GALLON JULY 1st OF THIS YEAR. THIS REPRESENTS A POTENTIAL LOSS TO THE STATE HIGHWAY FUND OF APPROXIMATELY \$5 MILLION DOLLARS PER YEAR. THIS EXEMPTION HAS BEEN USED TO ENCOURAGE THE USE OF GASOHOL AND THUS THE PRODUCTION OF ALCOHOL IN THE STATE OF KANSAS. THE CRITICISM HAS BEEN THAT THIS REWARDS NOT ONLY KANSAS ALCOHOL PRODUCERS BUT ALL PRODUCERS, PROBABLY EVEN BRAZILIAN PRODUCERS, AS WELL AS OUT-OF-STATE PRODUCERS.

HB-2491 WILL SET UP A KANSAS QUALIFIED ALCOHOL PRODUCERS FUND OF TWO AND ONE-HALF MILLION DOLLARS. IT SAYS WE WILL COLLECT THE SAME TAX FOR GASOHOL AS IS CHARGED FOR GASOLINE AT THE PUMP. HOWEVER, AS AN ECONOMIC DEVELOPMENT INCENTIVE TO PRODUCE ETHANOL IN THE STATE OF KANSAS, THE PRODUCERS FUND WOULD BE DISTRIBUTED TO KANSAS PRODUCERS INSTEAD OF ALL PRODUCERS ON A BASIS OF 20¢ PER GALLON OF ALCOHOL SOLD WITH NO PRODUCER BEING ABLE TO RECEIVE MORE THAN 35 PERCENT OF THAT FUND. THIS IS ECONOMIC DEVELOPMENT FOR KANSAS AND IS REVENUE NEUTRAL. HB-2491 WOULD REDUCE THE COST TO THE HIGHWAY FUND BY HALF AND MAKE SURE THE MONEY STAYS IN KANSAS TO HELP KANSAS PRODUCERS.

IN TESTIMONY BEFORE THE SUBCOMMITTEE IT SEEMED TO BE APPARENT THAT THE 20¢ PER GALLON SUBSIDY WOULD ENCOURAGE CURRENT PRODUCERS TO STAY IN BUSINESS. A THIRTY CENT SUBSIDY WOULD ENCOURAGE SOME EXPANSION OF THOSE FACILITIES ALREADY IN OPERATION AND A 40 CENT SUBSIDY WOULD CAUSE NEW ETHANOL PLANTS TO BE BUILT IN KANSAS. I FEEL THAT AS WE LOOK AT VALUE ADDED PRODUCTS FOR OUR STATE IT IS IMPORTANT TO NOTE THE MARKET THAT A LARGE ETHANOL PLANT CREATES FOR NOT ONLY CROPS THAT ARE CURRENTLY

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EUGENE L. SHORE

TESTIMONY 3/26/87 - SENATE TRANSPORTATION AND UTILITIES COMMITTEE.

IN SURPLUS IN KANSAS, BUT IN MANY INSTANCES FOR CROPS WHICH HAVE BECOME DAMAGED SUCH AS SPROUT DAMAGED MILO IN THE EASTERN PART OF THE STATE THIS PAST YEAR, OR GRAIN WHICH HAS GONE OUT OF CONDITION IN STORAGE.

IT APPEARS TO BE INEVITABLE THAT SOONER OR LATER INCREASED AMOUNTS OF ETHANOL WILL BE USED, NOT ONLY TO REPLACE LEAD IN GASOLINE BUT IN VARIOUS FORMS OF CLEANING UP THE ENVIRONMENT SUCH AS COAL FIRED GENERATORS AND OTHER LARGE CONTRIBUTORS TO SMOG IN POPULOUS AREAS. THIS BILL IS SIMPLY AN ATTEMPT AT HAVING A KANSAS FOOT IN THE DOOR WHEN THIS FLEDGLING INDUSTRY COMES OF AGE.

THANK YOU FOR YOUR ATTENTION. I'LL BE HAPPY TO ANSWER ANY QUESTIONS.

JOHN C. BOTTENBERG

412 CAPITOL TOWER - 400 W. 8TH
TOPEKA, KANSAS 66603
(913) 235-2324

March 26, 1987

TESTIMONY
to
SENATE TRANSPORTATION COMMITTEE
HB 2491

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to make brief comments on HB 2491, a measure designed to establish the Kansas Qualified ethyl-alcohol producer incentive fund.

We support HB 2491.

We would recommend the following changes:

- 1) Removal of the individual producers lid.
- 2) Funding more in-line with estimated loss for FY 88.
- 3) Extend sunset to 1993, same as Federal law.

Current law provides for a \$.03 per gallon exemption from the motor fuels tax of fuels containing 10% or more of ethanol sold in Kansas. This exemption drops to \$.02 per blended gallon on July 1, 1987.

The current exemption is projected to cost the highway fund in excess of \$5 million for fiscal year 1988. If gasoline prices would increase, ethanol sales would increase and lost revenue would increase accordingly.

ATT. 3
T&U 3/26/87

270 million gallons of ethanol blends were sold in Kansas during FY 86. The majority of the ethanol used in the blends came from states other than Kansas. Therefore, the largest portion of the benefits from the existing exemption flowed through the blenders to out-of-state ethanol producers.

HB 2491 provides a straight forward solution to the problem of out-of-state producers receiving the benefits of the Kansas tax exemption. This bill would establish an in-state ethanol producer incentive fund. The fund would be distributed quarterly to Kansas qualified ethanol producers at the rate of \$.20 per gallon of ethanol, which equals \$.02 per blended gallon.

By acting favorably on HB 2491, the advantages to Kansas would be:

- 1) A limit on the amount of dollars spent. The "open exemption" that current law now provides has no maximum.
- 2) Would assure Kansas ethanol producers of a market for their production.
- 3) Provide stronger markets for Kansas grains.
- 4) Provide employment opportunities for Kansans.
- 5) Would maintain and enhance the development of additional in-state production.
- 6) A cleaner environment for Kansans, both present and future generation.

This bill is truly an economic development proposal. If passed it would keep Kansas dollars in Kansas. The Kansas Ethanol Association urges your favorable consideration and passage of HB 2491 with our suggested changes.

I would be pleased to answer questions at this time.

Kansas Fuel Ethanol Sales
(000)

	FY 1986	FY 1987	FY 1988*
July	25,162	19,901	22,000*
August	25,579	20,099	22,000*
September	22,670	17,429	22,500*
October	24,289	17,657	24,000*
November	23,391	15,130	23,000*
December	24,370	22,800	22,000*
January	22,178	14,200	21,000*
February	20,021	17,000*	20,500*
March	23,390	18,000*	22,000*
April	21,666	18,500*	23,000*
May	20,919	20,000*	24,000*
June	<u>18,832</u>	<u>21,000*</u>	<u>25,000*</u>
Total Sales	272,467	221,716	271,000
Tax Exemption	.04	.03	.02
Revenue	\$10,898.68	\$6,651.48	\$5,420.00

*Projected by Information Resources, Inc.

Assumptions:

1. Increased Premium Gasoline Demand
2. Retail Gasoline Margin Squeeze
3. End of Lead Banking
4. Growth in 89-octane Mid-Grade Unleaded
5. Reduced Negative Press

ATT. 4
3/26/87

KANSAS DEPARTMENT OF TRANSPORTATION

DOCKING STATE OFFICE BUILDING — TOPEKA, KANSAS 66612—1568
(913) 296 — 3566



HORACE B. EDWARDS, Secretary of Transportation

MIKE HAYDEN, Governor

March 26, 1987

MEMORANDUM TO: The Honorable Bill Morris, Chairman
Senate Transportation and Utilities Committee

FROM: Edward R. DeSoignie
Policy Coordinator

REGARDING: House Bill 2491, as Amended

House Bill 2491, as amended, creates the Kansas Qualified Agricultural Ethyl Alcohol Producer Incentive Fund, and eliminates the gasohol tax subsidy. The Agricultural Ethyl Alcohol Producer Incentive Fund will be financed by quarterly transfers from state motor fuel tax receipts beginning on July 1, 1987 and each quarter thereafter, in the amount of \$625,000 (\$2.5 million annually).

A Kansas qualified agricultural ethyl alcohol producer will be paid an incentive of \$.20 per gallon of agricultural alcohol sold to an alcohol blender. At the \$.20 per gallon rate, 12,500,000 gallons of agricultural ethyl alcohol can be subsidized per year.

My comments to you this morning will not be directed towards the policy addressed by the bill in the establishment of an in-state producer's incentive; a policy on which the Department maintains a neutral position. Instead, I will direct my comments to three items: 1) the level of funding of the proposed incentive fund - set in the bill at \$2.5 million per year, 2) the method or mechanism for funding the proposed incentive fund, and 3) some necessary technical amendments.

By way of background, the 1985 Legislative Session enacted House Bill 2022 which provided for a graduated reduction in the Kansas ethanol subsidy. The reduction plan called for a one cent yearly phase-down over three years beginning on July 1, 1985 and completing on July 1, 1987. Over the past two and one-half years the Kansas ethanol subsidy has gone from five cents in Fiscal Year 1985 to four cents in Fiscal Year 1986, three cents in Fiscal Year 1987, and to two cents in Fiscal Year 1988 where it will remain at two cents.

In November of 1986, the Revenue Consensus Estimating Committee met and projected the sale of 127 million gallons of gasohol during Fiscal Year 1988. Based on these estimates it was projected that the following revenues would not be forthcoming to the following funds:

State Highway Fund	\$1.23 million
State Freeway Fund	.29 million
Total State	\$1.52 million
Sp. City & County Hwy. Fund	1.02 million
All Funds	\$2.54 million

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House Committee amendments appearing on lines 60 through 65 of the bill set the funding level of the proposed producer's incentive fund at the projected subsidy level for Fiscal Year 1988 of \$2.5 million. This is consistent with maintaining the ethanol subsidy at the projected, targeted level of two cents and would not increase revenue losses to the State, Cities, and Counties. The Department concurs with the amendment.

I have attached to my remarks Kansas gasohol consumption amounts for Fiscal Years 1983 through 1986, including year to date information for Fiscal Year 1987 and estimates for Fiscal Year 1988. Based on present consumption trends, FY 1987 and 1988 target estimates will not be revised at this time.

Secondly, House Committee amendment appearing in Section 7 of the bill create a mechanism whereby the producer's fund would be funded prior to the revenue distributions to the State and local funds similar to the Refund Fund currently in place. Section 7 retains the concept of cost sharing as it presently exists among the State Freeway Fund, State Highway Fund, and Special City and County Highway Fund. The Department concurs with the amended language.

The last items I bring to your attention are technical in nature. The bill before you this morning provides for annual funding of the Producer's Incentive Fund at a level of \$2.5 million. In the event that demands upon the Fund exceed \$2.5 million annually the Department advises that House Bill 2491 authorize the Secretary of Revenue to pro-rate the subsidy up to a maximum of \$.20 per gallon. Secondly, the bill does not address what is to be done with balances which may exist in the Incentive Fund after July 1, 1990. The Department respectfully requests that a provision be included in the bill authorizing the State Treasurer to distribute any remaining balances existing after July 1, 1990 to the various highway funds in accordance with existing revenue distribution formulas.

Thank you Mr. Chairman, that concludes my remarks.

Attachment

Kansas
Fiscal Years 1983-1988

Gasohol Opportunity
Gallons Loss

FY 1983 6,897,620 \$143,966
FY 1984 169,624,950 \$7,842,513

FY 1985

July	27,198,767	1,359,938
August	24,442,367	1,222,119
September	16,606,133	831,462
October	24,734,100	1,236,705
November	22,327,933	1,116,397
December	19,694,533	984,727
January	24,502,500	1,225,125
February	14,082,500	704,125
March	22,501,567	1,125,078
April	16,641,267	832,063
May	30,353,567	1,517,678
June	23,194,867	1,159,743
Total	266,280,100	\$13,315,161

FY 1986

July	26,734,700	1,336,735
August	24,444,771	977,791
September	21,624,114	864,965
October	23,780,000	951,200
November	19,395,543	775,822
December	29,265,971	1,170,639
January	22,229,971	889,199
February	15,484,000	619,360
March	22,105,514	884,221
April	23,410,086	936,403
May	23,496,743	939,870
June	20,871,586	834,863
Total	272,843,000	\$11,181,067

FY 1987

July	17,772,129	710,885
August	19,973,550	599,207
September	17,945,700	538,371
October	18,053,075	541,592
November	6,656,075	199,682
December	22,867,663	686,030
January	14,197,050	425,912
February		
March		
April		
May		
June		

Total 189,700,000 \$5,868,721

FY 1988 \$2,500,000

Total, all years \$40,851,428

PROPOSED AMENDMENTS FOR H.B. NO. 2526

On page 1, in line 36, by striking "30" and inserting "60";

On page 2, in line 63, by striking "within" and inserting "no less than 45 days nor more than"; in line 64, before the period, by inserting ", except that if the value of the vehicle and personal property is less than \$500, the verification request shall be submitted to the division of vehicles within 60 days after such person took possession of the vehicle"