

Approved April 15, 1988
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~xxx~~/p.m. on February 2, 1988 in room 519-S of the Capitol.

All members were present except: Representatives Laird, Gross, Russell

Committee staff present:

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

Conferees appearing before the committee:

Secretary Harley T. Duncan, Kansas Department of Revenue
Mr. John Smith, Kansas Department of Revenue

The meeting was called to order by Chairman Crowell, and it was announced the main order of business would be to receive requests for bills and to receive updates on matters concerning the Kansas Department of Revenue.

Mr. Harley T. Duncan, Secretary, Kansas Department of Revenue, briefed the Committee concerning collection changes in federal diesel fuel taxes. (See Attachment 1)

Secretary Duncan requested legislation be introduced which would 1) amend KSA 8-246 to include an additional form of identification which could be used in obtaining a duplicate driver's license; 2) increase fees for non-highway titles; 3) increase the penalty rate on special fuels tax; 4) provide that only penalties on special fuels tax can be waived, not interest; 5) provide for authority for the Director of Taxation to enter into agreements with taxpayers to extend the statute of limitations when deemed appropriate; 6) enable Kansas to join the International Fuel Tax Agreement; and 7) amend KSA 79-3408 to provide that no tax will be imposed upon or with respect to the first sale or delivery of motor vehicle fuel from a refinery, pipeline terminal, pipeline tank farm or other place to a duly licensed distributor. (See Attachment 2)

A motion was made by Representative Spaniol that Secretary Duncan's requests be introduced as Committee legislation. The motion was seconded by Representative Freeman. Motion carried.

Secretary Duncan provided an update concerning the Vehicle Information Processing System (VIPS). (See Attachment 3)

Secretary Duncan said that VIPS is a computerized information system to be used by the County Treasurers and the Division of Vehicles, with the primary objective being to improve service to vehicle owners through improved processing abilities at the County Treasurer's Office.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S Statehouse, at 1:30 ~~am~~ p.m. on February 2, 1988

He stated benefits resulting from the new system include:
1) reduction of county costs for computer related equipment;
2) little or no data processing labor overhead for vehicle applications in the county offices; 3) direct access to the State's central vehicle data base; 4) alleviation of problems resulting from applicants moving from one county to another during a registration period; 5) less time spent making application for a vehicle title or registration; 6) automated inventory control; and 7) consolidation of multiple application/receipt forms into one standard form.

Mr. John Smith, Kansas Department of Revenue, Division of Vehicles, briefed the Committee concerning the Commercial Motor Vehicles Act of 1986. (See Attachment 4)

He said the Commercial Motor Vehicles Act of 1986 was designed to prohibit commercial drivers from having more than one license, as well as to provide uniform standards for testing and issuing commercial licenses.

Mr. Smith explained that the Act defines a "commercial" motor vehicle as a vehicle used in commerce to transport passengers or property, having a gross vehicle weight of 26,001 or more pounds or is designed to transport 15 or more passengers including the driver, or is used in the transportation of hazardous materials.

Mr. Smith further stated the Act defines "commerce" as 1) trade, traffic and transportation within the jurisdiction of the United States between a place in a state and a place outside the state; and 2) trade, traffic and transportation in the United States which affects any trade traffic or transportation in #1.

He pointed out that Item #2 in the definition of commerce is causing the most problems and comments from the various states since it appears that it includes farmers, school bus drivers, mechanics, military personnel and others that would not ordinarily be thought of as engaging in interstate commerce.

Mr. Smith further discussed tentative changes in the Kansas Drivers License Act to comply with the Commercial Motor Vehicle Safety Act of 1986. (See Attachment 5)

He reported that the purpose of this new legislation will be to help reduce or prevent truck and bus accidents, fatalities and injuries by requiring drivers to have a single commercial motor vehicle license; to establish licensing requirements and to disqualify drivers who operate commercial motor vehicles in an unsafe manner.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S Statehouse, at 1:30 ~~xxx~~ p.m. on February 2, 1988

Representative Don Sallee expressed a need for the Committee to sponsor a resolution which would urge the Secretary of the United States Department of Transportation to provide for some classes of vehicles to be exempt from the Commercial Motor Vehicle Safety Act of 1986.

Chairman Crowell appointed a subcommittee consisting of Representatives Sallee, Smith and Dillon to work out the language for the resolution.

The meeting was adjourned at 3:05 p.m.

Rex Crowell, Chairman

MEMORANDUM

TO: The Honorable Rex Crowell, Chairman DATE: February 2, 1988
House Committee on Transportation

FROM: Harley T. Duncan,
Secretary of Revenue

RE: Collection Changes in Federal Diesel Fuel Tax

Federal Legislative Changes and Federal Fiscal Impact Estimate:

Under present federal law, the excise tax on diesel fuel, special motor fuels and non-gasoline aviation fuel is imposed at the retail level. Under an exception, retailers may elect to have wholesalers collect and pay tax when fuel is sold to retailer.

The Omnibus Budget Reconciliation Act of 1987, HR 3545 (Public Law 100-203), changed the collection of diesel motor fuel. Major changes are:

- Tax on diesel fuel (but not heating oil) and non-gasoline aviation fuel is imposed on the sale of (or earlier use) a taxable fuel by a registered, bonded, producer (wholesaler).
- Provisions for exempt sales beyond wholesale level are repealed and the U.S. Treasury given discretionary authority to exempt, on individual basis.
- The Department was informed by the IRS that bills are currently under consideration in the congress to exempt farmers up-front.
- Refunds of diesel (and gasoline) may be obtained by filing federal Form 843 with the IRS. To file quarterly rather than annually, refund must exceed \$1,000 per quarter.
- Changes effective April 1, 1988
- Taxable fuel that a dealer has on hand for sale on April 1, 1988, is subject to a "floor stocks tax" at the fuel's regular rate.
- Federal revenue estimates are \$215 million additional in partial calendar Year 1988 (April through December) and \$230 million additional in the full calendar year of 1989. The federal estimate is that roughly \$200 million per calendar year will be generated through increased tax compliance, the remainder through earlier payment.

Kansas Law:

In Kansas, diesel (special) fuel is taxed at the retail and/or user level. Non-highway diesel is not subject to the tax. If Kansas conformed to, the federal:

- Users currently purchasing diesel fuel for non-highway purposes would be required to pay the state diesel fuel tax, then apply for a refund. (Gasoline purchases of non-highway fuel are currently handled in this manner.)

- Current licensing and bonding requirements for retailers and users would not apply. Confusion with regards to responsible party for payment of diesel fuel tax would be eliminated.

Special Fuel Audit Assessments:

Audit assessments by the Department of diesel (special) fuel for the past 14 months show:

	<u>No. Audits</u>	<u>Assesments</u>	<u>Average Assessment</u>
Governmental Agencies	31	\$272,165	
Others	<u>160</u>	<u>424,013</u>	
Total	191	\$696,178	\$3,645

Administrative Comments:

Current gasoline and diesel (special) fuel returns could be combined. Programs to audit diesel fuel with gasoline are already in effect. Number of returns currently received are likely to be reduced almost in half. A more-thorough audit trail of diesel fuel would be available.

Refund procedures and policies will be required to process refunds of non-taxable diesel fuel. These could be incorporated with current gasoline procedures.

Additional staff is likely to be needed to process refunds, verify receipts and sales of diesel fuel, and to take advantage of office audits and to track fuel. It is estimated that approximately 2,100 inventory returns would be required.

There would be no adverse effect upon the Department if we do not link our laws to federal law.

Fiscal Impact:

For the last three years, Kansas collections have ranged from 1% to 1.5% of the federal amounts. Assuming that the federal estimates for additional revenue are reasonable, while reducing the \$230 to \$222 million, that Kansas collections correspond roughly to 1% of the federal, that the forces that produce additional revenue at the federal level (gain from earlier collection of tax, increased compliance) would operate in Kansas, and equating calendar and fiscal years, it is estimated that Kansas special fuel collection could increase by about \$1.9 million in FY 1989. At current distribution percentages, this would be: \$.77 million to the Special City/County Highway Fund; \$.92 to the State Highway Fund; and \$.21 million to the State Freeway Fund.

The federal tax on diesel is \$0.15/gallon and the Kansas tax is \$0.13/gallon. For estimating Fiscal Year 1989, if the federal additional amount is \$222 million and the Kansas share is 1% of the market, the calculation is:

$$\$222 \text{ million} / .15 = 1,4800 \text{ million gallons} \times .01 \times .13 = \$1.9 \text{ million}$$

The Consensus Estimate for diesel (special) motor fuel for Fiscal Year 1989 is \$27.7 million, an average of \$2.3 million per month. The estimate of \$1.9 million is about 83% of an average month's diesel revenue

100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

RECORDS
100-4

OMNIBUS BUDGET RECONCILIATION ACT
OF 1987

CONFERENCE REPORT

TO ACCOMPANY

H.R. 3545

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DECEMBER 21, 1987.—Ordered to be printed

maximum reduction in estate taxes to \$750,000, (5) imposes holding period requirements for the decedent and the ESOP, (6) prohibits the deduction in the case of securities acquired with assets transferred from another plan of the employer, and (7) imposes certain excise taxes on an ESOP or worker-owned cooperative for a failure to satisfy the allocation and holding period requirements.

The confirmation of the IRS Notice is effective as if included in the Tax Reform Act of 1986. The other provisions are effective with respect to sales of securities to ESOPs after February 26, 1987, except that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 26, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

Senate amendment

The Senate amendment is the same as the House bill, except that the provisions (other than the confirmation of the IRS Notice) are effective with respect to sales of securities to ESOPs after February 27, 1987, and that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 27, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

Conference agreement

The conference agreement follows the House bill.

V. EXCISE TAXES; USER FEES

A. EXCISE TAXES

1. Telephone excise tax: 3-year extension

Present law

A 3-percent excise tax is imposed on amounts paid for local telephone service, toll (long-distance) telephone service, and teletypewriter exchange service. This tax is scheduled to expire after December 31, 1987.

House bill

The House bill extends the present 3-percent telephone excise tax for 3 years, through December 31, 1990.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. Collection of diesel fuel and certain other motor fuels — sales to retailers

Present law

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (section 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

House bill

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid or gas which tax would be imposed if sold for use in an aircraft in noncommercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provision of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

Senate amendment

The Senate amendment generally is the same as the House bill with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the non-gasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leaking Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the

Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a non-taxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia.² As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

3. Extension of termination date for coal excise tax rate

Present law

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to \$1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to

² States and local governmental units eligible to apply to the Treasury for approval to buy fuels without payment of tax generally include those governmental units that are permitted to buy tax-free under present law (sec. 4221(a)(4)). The conferees are aware that repeal of automatic tax-free sales of these fuels to States and local governments may, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general concerns about compliance with these taxes outweigh that possibility. The discretionary exemption included in the agreement reconciles these compliance concerns with any potential burden on States and local governments. The conferees intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.

the Black Lung Disability Trust Fund, and (2) no unpaid interest on such advances.

Amounts equal to the revenues collected from the coal excise tax are appropriated automatically to the Trust Fund. Present law also authorizes repayable advances from the general fund to the Trust Fund. The Trust Fund pays certain black lung disease benefits in cases where no coal mine operator is found specifically responsible for the individual miner's disease.

House bill

No provision.

Senate amendment

The Senate amendment extends the termination date for the present-law coal excise tax rate from January 1, 1996 to the earlier of (1) January 1, 2014 or (2) the date the Trust Fund achieves solvency (as defined under the present-law termination provision). The extension of the termination date for the present-law coal excise tax rate is effective from January 1, 1996 to January 1, 2014, subject to earlier termination under the solvency provision described above.

Conference agreement

The conference agreement follows the Senate amendment.

4. Highway excise tax exemptions for private buses

Present law

Receipts from excise taxes on motor fuels and tires are deposited in the Highway Trust Fund. Receipts of the Trust Fund are used to finance expenditures which are authorized from the Highway Trust Fund. Exemptions from these excise taxes are provided for several purchasers of fuels, including private operators of transit buses and certain private school buses and buses used by section 501(c)(3) organizations.

Private bus operators are exempt from the excise tax on tires. Intercity common carrier buses and qualified local buses are exempt from the 9-cents-per-gallon highway taxes on gasoline and special motor fuels. Qualified local buses are also exempt from the 15-cents-per gallon diesel fuel tax. In addition, private intercity buses receive a 12-cents-per-gallon refund (or credit) of the 15-cents-per-gallon highway diesel fuel tax. No exemption is available for buses engaged in transportation that is not scheduled and is not along regular routes, unless the seating capacity of the bus is at least 20 adults (not including the driver).

House bill

The House bill repeals the motor fuels and tires excise exemptions for buses, including buses used by sec. 501(c)(3) organizations. This repeal does not affect the exemptions of governmentally owned and operated mass transit buses or of public school buses.

This provision is effective on January 1, 1988.

penditures were likely to result in revocation of the organization's tax-exempt status, unless the manager's agreement was not willful and was due to reasonable cause. The burden of proof as to whether the manager knowingly participated in the lobbying expenditures is on the Internal Revenue Service. The fact that the excise tax is imposed on an organization does not itself establish that any manager of the organization is subject to the excise tax.

The reasonable cause exception to the tax applicable to managers is to be applied in the same manner as the present-law reasonable cause exception to the excise tax liability of managers of a private foundation under section 4945 (see Treas. Reg. sec. 53.4945-1). Thus, a manager is liable for the excise tax under the conference agreement only if the IRS shows that, in agreeing to the making of the lobbying expenditures, the manager knew that such expenditures constituted lobbying expenditures and knew that as a result of such expenditures the organization was likely to lose its tax-exempt status under section 501(c)(3), and only if the manager failed to obtain an opinion of counsel concerning the expenditures that would protect the manager under the reasonable cause exception.

APPENDIX—ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS OF CONFERENCE AGREEMENT—
FISCAL YEARS 1988-90

(Millions of dollars)

Item	1988	1989	1990	1988-90
PART 1.—REVENUE PROVISIONS				
I. Individual Tax Provisions:				
A. Income Tax Provisions:				
1. Child and dependent care credit: Deny credit for overnight camp expenses.....	11	106	112	229
2. Limit interest deduction: Home equity debt in excess of acquisition debt capped at \$100,000; total for qualified residence debt capped at \$1 million.....	8	31	54	93
3. One-year delay in application of 2% floor to indirect deductions through regulated investment companies.....	-239			-239
B. Employee Benefit Provisions: Modify definition of active participant for IRA rules.....	(¹)	(¹)	(¹)	(¹)
II. Business Tax Provisions:				
A. Accounting Provisions:				
1. Repeal vacation pay reserve.....	614	885	1,639	3,138
2. Repeal completed contract method.....	417	773	975	2,165
3. Require capitalization of pension past service liability.....	91	153	173	417
4. Repeal installment method for dealers.....	1,593	2,750	1,942	6,285
5. Repeal cash method of accounting for farms with receipts over \$25 million.....	27	42	45	114
6. Changes in required taxable years for partnerships, S corporations, and personal service corporations.....	31	(¹)	3	34
B. Partnership Provisions:				
1. Portfolio income.....	77	127	170	374
2. Other publicly-traded partnership provisions.....	22	42	60	124
3. Treatment of tax-exempt partners.....	28	97	111	236
4. Study of publicly-traded partnerships.....				
C. Corporate Provisions:				
1. Modify computation of earnings and profits for intercorporate dividends and basis adjustments (override Woods Investment Company case).....	34	208	450	692
2. Denial of graduated rates for personal service corporations.....	75	125	140	340
3. Dividend received deduction to 70%.....	219	381	426	1,026

APPENDIX—ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS OF CONFERENCE AGREEMENT—
FISCAL YEARS 1988-90—Continued

(Millions of dollars)

Item	1988	1989	1990	1988-90
4. Reduction of tax avoidance in certain corporate dispositions.....	37	94	273	404
5. Greenmail and hostile corporate takeovers.....	(¹)	(¹)	(¹)	(¹)
6. Limitations on net operating loss carryforwards of corporations following worthless securities deduction by shareholders.....	5	8	9	22
7. Tax loss mergers and benefit acquisitions.....	26	44	48	118
8. LIFO recapture on conversion from C corporation to S corporation.....	58	129	185	372
9. Regulated Investment Companies capital gains distribution.....	240	12	15	267
D. Pensions: Modify funding rules.....	679	1,502	992	3,173
E. Foreign Tax Provisions: Treatment of South African income.....	20	23	14	57
F. Insurance Provisions:				
1. Interest rate used in computing reserves for life insurance and annuity contracts.....	43	154	208	405
2. Treatment of investment income of foreign insurance companies.....	11	27	39	77
3. Minimum tax treatment of mutual life insurance companies.....	25	57	61	143
III. Estimated Tax Provisions.....	806	117	79	1,002
IV. Estate and Gift Taxes:				
1. Freeze estate and gift rates at 55%.....	21	176	232	429
2. Modify rates and unified credit.....	2	23	31	56
3. Valuation of property (estate tax freezes & minority discount).....	6	46	57	109
4. ESOP estate tax deduction.....	1,226	1,553	1,862	4,641
V. Excise Taxes:				
1. Telephone tax: 3-year extension.....	1,324	2,266	2,472	6,062
2. Collect diesel fuel and special motor fuels taxes on sales to retailer.....	215	230	200	645
3. Extension of termination date for coal excise tax rate.....				
VI. Other Revenue—Increase Provisions:				
A. Targeted Jobs Tax Credit.....	4	2	2	7
B. Illegal Federal Irrigation Subsidies as Gross Income.....	(¹)	(¹)	(¹)	1
C. Compliance Provisions:				
1. Escheat of refunds.....	10	10	10	30
2. IRS funding.....				
D. Tax-Exempt Bond Provisions:				
1. Limitation on issuance of tax-exempt bonds to acquire existing output facilities.....	9	70	162	241
2. Limitation on issuance of tax-exempt bonds by Indian tribes.....	6	18	29	53
VII. Employment Taxes (Title IX):				
1. Railroad retirement taxes.....	144	182	183	509
2. FUTA tax: 3-year extension.....	715	1,009	1,033	2,757
3. FICA taxes:				
a. Expand employer share of FICA tax to include all cash tips.....	184	281	302	767
b. Expand FICA tax to inactive duty reservists, certain agricultural employees, family members, and group-term life insurance includable in wages.....	127	255	275	717
VIII. Vaccine Compensation Tax and Trust Fund (Title IX) ^a	67	89	5	151
Subtotal: Part 1.—Revenue Provisions.....	9,078	14,097	15,068	38,243
PART 2.—USER FEES (Title IX)				
I. Internal Revenue Service.....				
II. Extensions and increases in certain Alcohol, Tobacco, and Firearms occupational taxes.....	46	60	60	166
III. Customs Service.....	167	106	106	379
	122	152	591	
Subtotal: Part 2.—User Fees.....	335	318	757	1,410
Grand Total.....	9,413	14,415	15,825	39,653

^a Gain of less than \$500,000.

^b Estimates represent the net effects of full-funding rules and underfunding rules.



KANSAS DEPARTMENT OF REVENUE


Office of the Secretary

Robert B. Docking State Office Building

Topeka, Kansas 66612-1588

MEMORANDUM

TO: The Honorable Rex Crowell, Chairman
House Committee on Transportation

FROM: Harley T. Duncan
Secretary of Revenue 

RE: Requested Legislation

DATE: February 2, 1988

The Department of Revenue respectfully requests the introduction of bills to accomplish the following:

IDENTIFICATION TO OBTAIN A DUPLICATE DRIVER'S LICENSE

K.S.A. 8-246 permits use of thirteen forms of identification as proof of identity in obtaining a duplicate driver's license. There has been recent public criticism of the department by individuals who have been unable to obtain a duplicate driver's license for failure to show any of these "acceptable" forms of identification.

Recommendation. The department recommends amending K.S.A. 8-246 to include an additional form of identification; an employee identification card containing a photo and date of birth.

INCREASE IN FEES FOR NON-HIGHWAY TITLES

1987 House Bill 2458 generally increased the fees for certificates of title from \$3.50 to \$9.00. The fee for nonhighway certificate of title applications was not increased due to an oversight.

Recommendation. The fee should be increased from \$3.50 to \$9.00 for nonhighway certificates of title.

FUEL TAX

SPECIAL FUELS TAX - PENALTY RATE

The penalty rate for delinquent taxes under K.S.A. 79-34,111 is 5 percent. A similar penalty provision in the sales and use tax law imposes a penalty of 10 percent.

Recommendation. The department recommends that the penalty rate be increased to 10 percent to be consistent with our sales and use tax law.

SPECIAL FUELS TAX - WAIVER OF PENALTY AND INTEREST

The department believes that penalties are a valid enforcement tool and the Director of Taxation should have discretion to waive them under certain circumstances. Interest provisions, however, should be designed to compensate the state for the loss of the use of funds during a delinquency or non-payment period. Consequently, once a valid assessment has been made and it has been determined that a taxpayer erroneously retained the use of funds which should have earlier been remitted to the state, interest should be charged. We see no need for the director to have discretion to waive interest charges. This change would conform the Special Fuels Tax law to the other excise tax areas.

Recommendation. The department recommends that the provision "or interest or both" be stricken so that only penalties can be waived and not interest.

STATUTE OF LIMITATIONS - AGREEMENTS TO EXTEND PERIOD FOR ASSESSMENT/REFUND.

The present statute contains a three year limitation period. There is no authority for a taxpayer and the Director of Taxation to agree to extend. Occasionally, an audit is in process and necessary records or data cannot be located by the taxpayer so that the audit can be completed within this prescribed period.

Recommendation. The department recommends the addition of the authority for the Director of Taxation to enter into agreements to extend the period of limitations when deemed appropriate.

INTERNATIONAL FUEL TAX AGREEMENT (IFTA)

The agreement is the product of the National Governors' Association Working Group on Interstate Motor Carriers. Entering into this agreement will not directly generate significant additional revenue for our state. Generation of revenue is, however, only one of our charges. We must also attempt to make voluntary compliance with our tax laws achievable by an average taxpayer. Presently, an interstate motor carrier must separately register with each state in which he travels. He is to report and pay fuel tax based on the number of miles driven in each state. IFTA greatly reduces the compliance burden of interstate carriers.

In an attempt to simplify fuel tax procedures, IFTA was developed utilizing a "base-state" concept. A carrier's base-state issues a license, receives tax reports and payments, and transmits appropriate pro-rated payments to member jurisdictions. This methodology is not unique to IFTA. Kansas is currently a member of the International Registration Plan which uses

a similar technique to pro-rate registration fees. Thirty-seven states and one Canadian province presently participate in the International Registration Plan. Twelve states have expressed their intent to sign IFTA.

By joining, we will markedly improve the motor carrier industry's perception of Kansas. Participation in the agreement will send a signal that we are a progressive state, concerned with the administrative burdens a complex tax system puts on businesses. Certainly our participation in IFTA would be a factor considered by motor carriers contemplating locating or expanding their businesses in Kansas.

Last, our participation may allow us to avoid federal pre-emption and the potential negative impact on federal highway funding levels.

Recommendation. The department requests that statutory changes be made to the Interstate Motor Fuel User Tax Act, K.S.A. 79-34,108 et seq., which would enable Kansas to join the agreement.

CHANGES IN THE MOTOR FUEL ACT

In 1985, the department deleted subsection (e) of K.S.A. 79-3408 in order to eliminate the "daisy chain" effect of tax free transfers of motor fuel from one licensed distributor to another because of the potential for tax evasion and the difficulty in tracing these tax free sales from one distributor to another. By eliminating this section, the department inadvertently eliminated the exemption that allowed the major oil companies at the refineries, pipeline, and terminals to sell "tax-free" to the first licensed distributor. Because of this amendment, 79-3408 technically requires all major oil companies at the refineries, pipeline and terminals to collect the tax from the first licensed distributor who purchases or actually takes delivery of the fuel.

This has become an issue because the department never intended to eliminate the ex-tax sale of motor fuel to distributors on the first sale from terminals and refineries. Because of continued concern over this matter, the department sent out a letter to all licensed distributors, refineries and terminals stating that our intention was not to eliminate this provision, and that until we could implement legislation to correct the problem, the department's policy is that the licensed distributor or importer that is shown on the manifest (bill of lading) as purchasing or actually taking delivery of the fuel as it leaves the refinery, pipeline or terminal, are the ones responsible for paying the motor-vehicle fuel tax. So far, this policy opinion has worked. However, the law technically does not support our position.

Recommendation. K.S.A. 79-3408 should be amended by adding the following:

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

(5) The first sale or delivery of motor-vehicle fuel from a refinery, pipeline terminal, pipeline tank farm or other place to a duly licensed distributor.



KANSAS DEPARTMENT OF REVENUE

Office of the Secretary

Robert B. Docking State Office Building

Topeka, Kansas 66612-1588

MEMORANDUM

TO: The Honorable Rex Crowell, Chairman
House Committee on Transportation

FROM: Harley T. Duncan
Secretary of Revenue *HTD*

RE: Update - Vehicle Information Processing System

DATE: February 2, 1988

BACKGROUND:

1. VIPS is a computerized information system to be used by the County Treasurers and the Division of Vehicles. The primary objective of VIPS is to improve service to vehicle owners through improved processing abilities at the County Treasurer's Office.
2. Each County Treasurer's Office will have sufficient terminal workstations and printers and a tape back-up device connected to an IBM System 36 processor. The counties will have inquiry ability to the State's master file of motor vehicle records. System programs will enable records to be edited in the county while the vehicle owner is present to help resolve any problems and to verify the accuracy of the transaction. The programs will enable automated computation of fees and penalties. After a transaction is completed, the system will produce a receipt.
3. At the close of a business, the system will automatically summarize activities of the day. Transactions will be collected on the county processor and transmitted to the State central files that same night. Records passing edits on the State's mainframe will be available to system users the following day. This is particularly important to the law enforcement community.
4. Benefits resulting from the new system include:
 - reduction or avoidance of county costs for computer related equipment and maintenance on vehicle related applications,
 - little or no data processing labor overhead for vehicle applications in the county offices,

General Information (913) 296-3909

Office of the Secretary (913) 296-3041 • Legal Services Bureau (913) 296-2381

Audit Services Bureau (913) 296-7719 • Planning & Research Services Bureau (913) 296-3081

Administrative Services Bureau (913) 296-2331 • Personnel Services Bureau (913) 296-3077

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- direct access to the State's central vehicle data base which allows for the early identification of possible fraudulent registrations such as suspended or revoked tags and stolen vehicles,
- alleviation of problems resulting from applicants moving from one county to another during a registration period,
- less time spent making application for a vehicle title or registration,
- automated inventory control, and
- consolidation of multiple application/receipt forms into one standard form.

COUNTY SHARED PROCESSORS:

1. VIPS and CAMA are large information processing systems managed by the Department of Revenue and designed to both collect and process data at the county level. The VIPS and CAMA applications will share the same processor in 93 counties. In the remaining twelve counties, VIPS will operate on a separate System 36 processor.
2. Currently, the department is structuring a test environment for the purpose of evaluating the impact of running VIPS and CAMA on a shared processor. The information collected during the test will be used to establish guidelines for the county management of VIPS and CAMA activities on the System 36.
3. The VIPS/CAMA processors, the VIPS only processors, and the VIPS peripheral equipment will be financed through an increase in vehicle title fees which became effective January 1988. The \$5.50 title increase for a two year period will generate sufficient money to fully pay for the cost of this equipment by the time the last VIPS county is implemented.

STATUS OF VIPS DEVELOPMENT:

1. The VIPS project is in the implementation phase of development. Douglas County was the first county to use VIPS for processing vehicle transactions in December 1987. To date, three other counties (Jackson, Jefferson, and Brown) in northeast Kansas have been implemented. Ellis County was a pilot county that was implemented early in January for the purpose of testing the long distance telecommunications ability of the system.
2. Two counties are scheduled to be implemented each week throughout 1988. By the close of the year all counties are expected to be using the VIPS processing system.
3. Counties are being implemented by telecommunication district. The five telecommunication districts are:

<u>District</u>	<u>Implementation Timeframe</u>
# 1 Northeast Counties	January - February
# 2 At., Lv., Wy., Jo., Mi. & Ln.	March
# 3 Southeast/central Counties	April - June
# 4 Southwest	June - August
# 5 Northwest/central	August - December

Note: A few counties scheduled for an early implementation date have requested and been granted an implementation date occurring during the August through December timeframe.

4. All counties are given the opportunity to receive preliminary training approximately five to eight weeks prior to actual start-up. Preliminary training enables county staff to experiment with the equipment in the comfort of their office environment and to become generally familiar with the various functions of the processing system before the formal on-site training sessions and the actual system start-up date.
5. The department has contracted with the Department of Human Resources, Employment Security System Institute (ESSI) to provide experienced professional training personnel with the ability to present a meaningful and well developed training program to the counties.
6. The VIPS system is composed of programs designed for the county System 36 computers and programs designed to operate on the State mainframe computer. The majority of the mainframe computer programs have been completed. The basic (high volume transaction) county processor programs are operational. The county processor programs that are not completed will be released periodically after thorough testing. The following is a list of the major VIPS programs listed by business function:

<u>Program</u>	<u>Status</u>
Registration Renewal	Operational
Regular Title and Registration Transactions	Operational
Duplicate, Secured and Reissue Title Trans.	Operational
Registration Verification	Operational
Duplicate Registration	Operational
Inquiry to Mainframe Capability	Operational
Property Tax Calculation Module	Operational
Fee Calculation Module	Operational
Automated Receipt of Transaction	Operational
Automated Report of Daily Activities	Operational
Registration Transfer	Not Completed
Inventory Module	Not Completed
Computation of Refunds	Not Completed
Inquiry to NADA Values and Title Weights	Not Completed
Applications for Lost/Stolen/Exchanged Plates	Not Completed
Applications for Special Reg. Categories (ARO, DAV, etc.)	Not Completed
Vehicle Sales Tax Computation and Reporting	Not Completed
Vehicle Property Tax Classification Module	Not Completed
Vehicle Property Tax Distribution Report	Not Completed

7. Staff temporarily assigned to the VIPS project will be gradually released back to their regular assignments when the remaining programming, testing, and enhancement tasks have been completed.
8. The amount of aid to local units of government requested in FY 1989 is \$2,733,356. This appropriation will be used for the purchase of hardware, software and telecommunications equipment used in the counties.



KANSAS DEPARTMENT OF REVENUE

Division of Vehicles

Robert B. Docking State Office Building

Topeka, Kansas 66626-0001

The Commercial Motor Vehicles Act of 1986 was designed to:

1. Prohibit commercial drivers from having more than one license; and
2. provide uniform standards for testing and issuing commercial licenses.

The Act defines a "commercial" motor vehicle as a vehicle used in commerce to transport passengers or property and:

1. has a gross vehicle weight of 26,001 or more pounds or, if the Secretary of the U.S. Department of Transportation so determines, 10,001 pounds; or,
2. is designed to transport 15 or more passengers including the driver; or
3. is used in the transportation of hazardous materials as defined under section 103 of the Hazardous Materials Transportation Act.

The Act defines "commerce" as:

1. Trade, traffic and transportation within the jurisdiction of the United States between a place in a state and a place outside of the state; and
2. Trade; traffic and transportation in the United States which affects any trade, traffic or transportation in paragraph 1 above.

COMMENT: It is the definition in paragraph 2 that is causing the most problems and comments from the various states since it appears that it includes farmers, school bus drivers, mechanics, military personnel and others that would not ordinarily not be thought of as engaging in inter-state commerce.

The Act established time-tables for implementation of the act's requirements on the Secretary of the U.S. Department of Transportation and the states. The two most important dates for the states are:

1. April 1, 1992 by which time all commercial operators must have a state-issued driver license meeting the minimum requirements established by the U.S. Secretary of Transportation. The Secretary must establish these requirements by July 15, 1988; and
2. October 1, 1993 by which time all states must comply with the minimum standards for testing and licensing or lose 5 percent of their federal highway aid and 10 percent beginning October 1, 1994.

Other implementation dates which have an indirect affect on the states are:

1. July 1, 1987 when it became a violation of federal law to possess more than one drivers license. COMMENT: This was already prohibited under Kansas law.
2. January 1, 1989 by which time the U.S. Secretary of Transportation must establish a "clearing house" which the states will be required to access prior to issuing a commercial license. States must also notify the clearing house upon issuing a commercial license. COMMENT: Federal grants are available for necessary computer hardware and software purchases by the states for accessing the clearing houses.
3. October 27, 1988 by which time the U.S. Secretary of Transportation must issue a blood alcohol standard for commercial drivers. If no standard is issued by that date, the Act establishes a blood alcohol content of .04.

The Act also requires a driver license suspension for a period of one year on a first offense and for life on a second offense committed while operating a commercial vehicle if any person convicted of:

1. Driving under the influence of alcohol or a controlled substance;
2. Leaving the scene of an accident;
3. Using a commercial vehicle in the commission of a felony; or
4. Any combination of the above violations. Other driver license sanctions for conviction of other moving violations are to be established by the U.S. Secretary of Transportation.

The proposed rules and regulations for the implementation of this Act will impose requirements on the states that will be expensive and burdensome to meet even with the federal grants available to assist in meeting these requirements. Although most of the states as well as the trucking and other affected industries, agree with the intent of the Act, there is almost unanimous opposition to several of the proposed rules and regulations. These objections have been presented at public hearings concerning the proposed rules and regulations and, hopefully, will result in a more efficient implementation of the Act.

To alleviate expenses, difficulty in administration and undue burdens on the general public who are not involved in true inter-state commerce, the following proposals have been made by the states and affected industries to the Federal Highway Administration:

1. Eliminate separate endorsements for tanker trucks, dual and triple trailers, articulated buses, and air brakes.
2. Permit "grandfathering" of present commercial drivers unless their driving records warrant complete testing.
3. Permit third-parties (employers and schools) who have been approved by the state to certify drivers for a license without having to take a state administered test.
4. Permit renewals of a license without a drive test unless the person's driving record warrants further testing.

If, and its a big if, these suggestions are adopted it will allow the implementation of the Act with less difficulty and expense to the states and still comply with the original intent of the Act. However, it appears that the key to removing those person's who are not truly engaged in inter-state commerce from the requirements of the Act will require federal legislation to delete the definition of "commerce" that applies to "Trade, traffic and transportation" in the United States which affects any trade, traffic or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state.

Tentative Changes in the Kansas
Drivers License Act to Comply
With the Commercial Motor
Vehicle Safety Act of 1986

The purpose of this new legislation will be to help reduce or prevent truck and bus accidents, fatalities and injuries by requiring drivers to have a single commercial motor vehicle license; to establish licensing requirements and to disqualify drivers who operate commercial motor vehicles in an unsafe manner.

The new legislation will apply to every person who operates a commercial motor vehicle in interstate, foreign or intrastate commerce and to all employees of such persons.

The most efficient method of complying with the new act is to incorporate all applicable provisions into the Kansas Drivers License Act. However, there will be a need to modify specific Kansas statutes and to create additional statutes.

Most important is revision of K.S.A. 8-234b, which provides the classes of drivers' licenses. A suggested "Commercial license" provision needs to be added. This will provide for a commercial license for operators of any class of vehicle that fits the commercial vehicle definition. Additionally, a commercial license endorsement will be necessary for an operator of certain types of commercial motor vehicles.

K.S.A. 8-252, which provides for a maximum suspension or revocation period of one year, for residents convicted in other states, need to be amended to include the longer suspension or revocation periods applicable to commercial drivers under the Commercial Motor Vehicle Safety Act.

K.S.A. 8-256 provides for a general one (1) year maximum period for suspension or revocation. This needs to be amended to reflect the longer suspension or revocation periods mandated by the new act.

The content of the drivers license card is established by K.S.A. 8-243. The new Federal act will mandate use of the social security number for the commercial drivers' license number. K.S.A. 8-243 needs to be amended to include this and any future requirements.

The Commercial Motor Vehicle Safety Act requires a state to issue commercial licenses only to commercial vehicle operators domiciled in that state. the definition of resident contained in K.S.A. 8-234a is inadequate. A proposed amendment will add an element of intent to adopt Kansas as a new residence. This will conform with appellate court opinions. Additionally, a list of factors used to determine residency needs to be added.

The act requires States to penalize persons who operate commercial vehicles without the appropriate license or endorsement. To comply, a new statute is needed that will suspend the driving privileges of any person convicted of driving a vehicle without the proper license or endorsement, for a period of not less than one year.

Commercial license suspension, pursuant to the new act, will occur only if the violation, upon which the suspension is based, was committed while operating a commercial vehicle. Consequently, any citation issued by a law enforcement officer needs to contain sufficient information about the vehicle so the court and subsequently, the Division of Vehicles can correctly record the conviction on an individuals commercial driver's license record.

K.S.A. 8-2106 lists the requirements for citation content. However, this statute lists no requirement that a citation must include a physical description of the vehicle. Therefore, an amendment should be added to include a description of the vehicle so a determination whether the vehicle was a commercial vehicle can be made. We suggest that the legislature mandate a uniform traffic citation to be used by all Kansas law enforcement personnel. Finally, the Kansas driving under the influence statute, K.S.A. 8-1567, directs the court to suspend the driving privileges of a person convicted under K.S.A. 8-1567 for a period of 21 days or until completion of a driver education program. However, the new Federal Act mandates at least one year driving suspension for an operator convicted of D.U.I. when operating a commercial vehicle.

The present suspension under K.S.A. 8-1567 is by the courts, while the suspension pursuant to the Commercial Motor Vehicle Safety Act will be pursuant to administrative authority. The Commercial Motor Vehicle Safety Act also requires suspension for "serious traffic offenses" these offenses have yet to be defined by Federal rules and regulations. This obvious disparity will cause confusion and inconsistent suspension periods.

A viable solution is to grant the Department of Revenue sole authority to suspend, cancel or revoke the driving privileges of any person convicted of offenses mandating suspension, cancellation or revocation. By replacing the courts with the Department of Revenue, the different suspension, revocation, or cancellation periods for commercial and non-commercial operators can be efficiently implemented. This would transfer the burden from the courts and place it with the licensing authority.

Additional due process safeguards will be implemented. A commercial motor vehicle operator will be given the opportunity for an administrative hearing, prior to the imposition of any suspension, revocation, or cancellation pursuant to the Commercial Motor Vehicle Safety Act of 1986.

In conclusion, to best comply with the Federal Law and any future amendments, a blanket incorporation of the new law into the Kansas Drivers License Act together with the granting of specific regulatory authority to the Secretary of Revenue, is recommended. However, a few statutes must be amended to reflect longer suspension periods and commercial license requirements. Additionally, new statutes must be adopted that provide penalties for persons who operate vehicles without the appropriate license or endorsement.

The Federal time table for enacting this legislation started on October 27, 1986 with the enactment of the Commercial Motor Vehicle Safety Act of 1986. This law is the foundation stone for the concept of one driver, one license. Effective July 1, 1987, no person who operates a Commercial Motor Vehicle shall have more than one (1) license.

Published in the June 1, 1987 Federal Register is The Regulation part of title 49 of the Code of Federal Regulations. This helped clarify the applicability and scope of the new commercial motor vehicle law.

On or before July 1, 1988 the F.H.W.A. must promulgate regulations for the uniform testing and licensing of commercial vehicle operations. These will be the standards Kansas will adopt through regulatory authority contained in the Kansas version of the Commercial Motor Vehicle Safety Act of 1986.

Finally, Kansas must comply with this new legislation by fiscal year 1992 or the state will lose 5% of Federal Highway funds for noncompliance. In subsequent years, the 5% penalty will be raised to 10%.