

Approved September 19, 1988
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~am~~/p.m. on February 22, 1988 in room 519-S of the Capitol.

All members were present except: Representatives Laird and Wilbert

Committee staff present:

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

Conferees appearing before the committee:

Representative Debbie Schauf
Mr. Harley T. Duncan, Secretary, Kansas Department of Revenue
Representative Nancy Brown
Ms. Bev Bradley, Kansas Association of Counties
Mr. Ed DeSoignie, Kansas Department of Transportation

The meeting was called to order by Chairman Crowell, and the first order of business was the receiving of bill requests.

Chairman Crowell requested a bill be drafted which would deal with the Corporation Commission's requirement to review certain applications involving truckers.

A motion was made by Representative Dillon that this be introduced as a Committee bill. The motion was seconded by Representative Moomaw. Motion carried.

Representative Moomaw suggested a bill be drafted which would deal with the 10-passenger school bus problem.

A motion was made by Representative Moomaw that this legislation be introduced as a Committee bill. The motion was seconded by Representative Dillon.

Staff advised there is federal legislation permitting 15 passengers, and it might not be advisable to introduce this on a state level.

Motion to introduce the legislation as a Committee bill passed.

Representative Smith requested a bill be introduced in regard to monthly reporting on sales tax when financial institutions use full service plates.

A motion was made by Representative Smith that this be introduced as a Committee bill. The motion was seconded by Representative Gross. Motion carried.

The next order of business was a hearing on HB-2878 providing an exemption for certain county, city, or township vehicles from special fuels tax.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xx~~/p.m. on February 22, 1988.

Representative Debbie Schauf, sponsor of the bill, briefed the Committee on its contents. (See Attachments 1 and 2)

Representative Nancy Brown testified in support of HB-2878. She said that township roads are involved as well as city and county roads.

Ms. Bev Bradley, Kansas Association of Counties, spoke in favor of HB-2878. (See Attachment 3)

The hearing on HB-2878 ended.

The next order of business was a hearing on HB-2954 concerning notification of the Secretary of Transportation of hearings relating to airport zoning.

Mr. Ed DeSoignie, Kansas Department of Transportation, testified in support of HB-2954. (See Attachment 4)

He said HB-2954 amends K.S.A. 3-705; concerning airport zoning and notification requirements, to require that governing bodies of political subdivisions adopting, amending, or changing airport zoning regulations be required to provide written notice to the Secretary of Transportation, 15 days prior to the hearing on such regulations.

Mr. DeSoignie said this legislation would provide the Secretary of Transportation the opportunity to submit written or oral comments at public hearings held on airport zoning regulations.

The hearing on HB-2954 ended.

The meeting was adjourned at 2:30 p.m.


Rex Crowell, Chairman

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: GOVERNMENTAL ORGANIZATION
LOCAL GOVERNMENT
INSURANCE

DEBARA K. SCHAUF
REPRESENTATIVE, EIGHTY-FIRST DISTRICT
SEDGWICK AND SUMNER COUNTIES
P. O. BOX 68
MULVANE, KANSAS 67110
(316) 777-4608

SPECIAL FUELS TAX EXEMPTION

I introduced this bill at the request of the Sumner County Commission.

The commissioners contacted me in November about the special fuels tax audit they had undergone back in the summer. They had only recently (at that time) been notified of the amount they were expected to pay. As you can see from the attached list, they initially received one of the highest assessments. I then called the Secretary of the Department of Revenue, Mr. Duncan. He advised me that the audits of the counties was a new idea, it had come to their attention that there was some potentially uncollected revenue to be had in this area. He also told me that as a matter of course, if a county appealed the figures of their audit they would work with them. Further discussion indicated that when the counties were audited, many had been unaware that they even were required to pay the special fuels tax on the vehicles used in connection with the maintenance and construction of county roads. Although many of the counties were audited in 1987, Mr. Duncan advised me that a letter would be going out to Cities and Counties early in 1988 advising them

John Crowell
Attach. 1

of the liability. (A copy of that letter is attached) He also told me that the auditors were allowed to audit back as far as the records were available, assess a percentage charge for penalty, and interest and the county was expected to pay that amount. If a county filed an appeal, and if the audit had extended back more than three years, the back taxes prior to 3 years previous could be abated by the director, and in some cases the penalty, or the interest could be waived if the county persisted in the appeal.

The department furnished me further information which indicated that some counties had been licensed to collect special fuels tax prior to 1987, however the first audit of a licensed county was not conducted by the Department until June of 1985. The first audit of an unlicensed county was conducted in March of 1987. There are currently only 10 cities licensed to collect and remit special fuels tax.

During an audit span from 1978 thru 1987 the department provided the following figures:

TAXES ASSESSED:	\$ 214,827.18
INTEREST ASSESSED	85,838.72
PENALTY ASSESSED	15,642.06
TAXES ABATED	\$ 46,347.84
INTEREST ABATED	52,779.49
PENALTY ABATED	13,713.27

A very limited research of the background of the special fuels tax for diesel indicated that the original law allowing for the collection was passed in the early 1950's, and allowed for exemption of special fuel used by the government of the United States, its agencies or instrumentalities or by the national guard of Kansas or any other state. There has been some speculation by the counties that they may not have been exempted because the use of diesel vehicles was not that common at that time.

I have contacted Cleo Murphy in the Department of Revenue early this session and requested information about the special fuels tax, the amount of tax actually attributable to the cities, townships, or counties. She has informed me that the total amount of special fuels tax collected is available for each year, however the dollars actually paid by cities, townships, or counties is not available. She also explained that some of those entities may be paying special fuels tax directly to the vendor when they purchase the diesel fuel, but any who are not should be licensed and filing monthly statements with the state. As I gathered the data from the counties I was quite surprised at the erratic manner in which the audits were conducted. It seemed unusual that some would be back as far as 1979, others just the past 3 years, some penalties were abated, some interest was abated, and for other counties who were not aware of the procedure, the full amount was collected. I would urge this committee to ask

many questions of the department, and strive to establish some equality for those who have already been audited.

Over and over since I came to the legislature I have heard what a problem the roads in our state have become, and what a financial burden it is for the local governments to meet their maintenance and construction needs with the limited funds available. Last year there was much discussion about reducing some of the funds that go back to the local units of governments for the maintenance of those same roads. It seems almost contradictory to be collecting a special fuel tax from these local governments that must be paid with tax dollars at a time when those entities financial resources are already so inadequate. I urge your support for HB 2878.

STATE OF KANSAS

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 SEDGWICK AND SUMNER COUNTIES
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TOPEKA

HOUSE OF
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 INSURANCE

SPECIAL FUEL TAX AUDITS BY COUNTY

NOTE: The Revenue Department told me these figures were unavailable, however they did furnish me a list of the counties audited to date. The information below was compiled by calling each county and asking for their records. As you will see there is a broad variation in the way the department has handled the audits and the appeals.

Unlicensed Counties Audited:

COUNTY	TAX	INTEREST	PENALTY	TOTAL (2nd line=appeal)
Atchinson	625.36	292.50	15.85	933.71
	no appeal filed			
Chase	(audited but not yet notified of amount due State)			
Cherokee	(audited, figures not available)			
Cowley	8307.46	1959.08	415.38	10681.92
	no appeal filed, waiting for license from state			
Crawford	2740.27	343.21	137.07	3220.98
	appealed- director waived penalty			
Ellis	17394.00	4353.85		21747.85
	appealed, penalty was waived			
Graham	(audited, figures not available).			
Harper	7708.74	1998.06	385.44	10092.24
	not appealed, county paid full amount			
Harvey	(audited, figures not available)			
Johnson	(audited, figures not available)			
Marshall	5775.86	2012.62	287.79	8076.27
	reduced to 3865.27	1893.58		5758.85
	tax collected only for past 3 years, penalty waived			
Nemaha	(complete figures unavailable)			216.45 not appealed

Attach. 2

Osage	(audited, figures not available)			
Osborn	(audited, not yet notified of amt due)			
Rooks	16959.43	6766.62		23273.00
	appealed, figures above were amts paid, penalty was waived)			
Saline	20248.77	12085.85	1012.00	33347.06
	10641.15	3047.90		13689.05
	appealed, amt was reduced & penalty waived, figures above indicate the amount actually paid			
Sedgwick	45392.43	13108.08	2269.61	60770.12
	appealed, penalty and interest were waived, tax collected back only for past 3 years			
Seward	1707.55	307.51	85.38	2100.44
	appealed, and penalty was waived			
Sumner	32283.70	19782.35	1614.19	53680.24
	reduced 15096.07	4732.73		20428.80
	they were originally charged back thru 1979 when audited I called and talked to Harley & they reduced tax to past 3 years plus interest & agreed to waive penalty. The county now plans to appeal the payment of interest since it was waived for Sedgwick county also			
Wabaunsee	(audited, figures not available)			
Washington	10850.39	5388.57	542.52	16781.48
	appealed and the director dropped the penalty & interest			
Wyandotte				4021.45
				3118.07
	appealed, and settled on bottom amount			

Kansas Association of Counties

Serving Kansas Counties

212 S.W. Seventh Street, Topeka, Kansas 66603

Phone (913) 233-2271

February 22, 1988

To: Chairman Rex Crowell
Members of House Transportation

From: Kansas Association of Counties
Bev Bradley, Legislative Coordinator

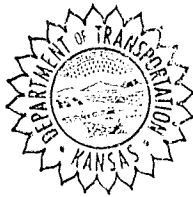
Re: HB-2878

Kansas Association of Counties supports the amendment, new part (d) of HB 2878 which exempts from tax, special fuel used by counties, cities, or townships in motor vehicles used for construction, repair or maintenance of public highways.

We are all aware of the problems with highways and the need for repair both at the state and local level. Counties are very short of highway repair funds and this unexpected expense after the Department of Revenue audit adds to the problem. Sumner County for example owes \$20,428.80 even after an appeal. This is back tax, and interest. We understand that ignorance is no excuse from the law, but local units of government are in a "funds crunch" also. Kansas Association of Counties supports this proposed exemption in HB 2878.

Att. 3

STATE OF KANSAS



KANSAS DEPARTMENT OF TRANSPORTATION

*Docking State Office Building
Topeka 66612-1568
(913) 296-3566*

Horace B. Edwards
Secretary of Transportation

February 22, 1988

Mike Hayden
Governor of Kansas

MEMORANDUM TO: The House Transportation Committee

FROM: The Kansas Department of Transportation

REGARDING: House Bill 2954

House Bill 2954 by the Committee on Transportation was requested by the Department of Transportation. The bill amends K.S.A. 3-705; concerning airport zoning and notification requirements, to require that governing bodies of political subdivisions adopting, amending, or changing airport zoning regulations be required to provide written notice to the Secretary of Transportation, 15 days prior to the hearing of such regulations. The legislation would provide the Secretary of Transportation the opportunity to submit written or oral comments at public hearings held on airport zoning regulations. The bill was requested because of the Department's efforts with air transportation which I will explain briefly.

The Department's Division of Aviation coordinates the planning, development, and operation of aviation-related aspects of the transportation system. Functions of the Division include: airport inspections, airspace evaluations, liaison with the Federal Aviation Administration and preparation of flight directories and maps. In addition, the Division is charged with promoting air travel in Kansas.

Under existing law, airport zoning authorities are required to publish a public notice in an official paper or paper of good circulation in such political subdivision. The amendments to K.S.A. 3-705 would enhance the efforts of the Department to review proposals impacting the airspace around airports.

Thank you Mr. Chairman, that concludes my prepared remarks.

Att. 4