Approved 2-4-92
Date

MINUTES OF THE House COMMITTEE ON Transportation.

The meeting was called to order by Representative Herman G. Dillon at
Chairperson

1:36 a.m./p.m. on January 23, 1992 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Hank Avila - Legislative Research
Tom Severn - Legislative Research
Bruce Kinzie - Revisor of Statutes
Jo Copeland - Committee Secretary

Conferees appearing before the committee:

Bud Grant - Kansas Chamber of Commerce and Industry
Ken Peterson - Kansas Petroleum Council
Jim Glass - Phillips 66 Company, Marketing Division, Bartlesville, Okla

Chairman Dillon asked the Committee for discussion and reconsideration of action on HB 2482 and HB 2434 which were tabled March 5, 1991.

House Bill 2482 - Mailing notice of security interest on motor vehicles.

Representative Crowell moved to remove from the table HB 2482. Representative Gross seconded the motion. Motion adopted.

House Bill 2434 - Registration of antique vehicles, exclusions.

No action was taken on HB 2434.

TESTIMONY - HOUSE BILL 2628 - Kansas Motor Fuel Marketing Act.

Chairman Dillon introduced Bud Grant who testified in opposition of HB 2628. (Attachment 1)

Chairman Dillon introduced Ken Peterson who testified in opposition of HB 2628. (Attachment 2)

Chairman Dillon introduced Jim Glass who testified in opposition of HB 2628. (Attachment 3)

Questions and discussion followed the above testimonies.

Written testimony from Texaco Refining and Marketing Inc., in opposition of HB 2628. (Attachment 4)

Meeting adjourned at 3:05 P.M.

GUEST LIST

COMMITTEE: HOUSE TRANSPORTATION COMMITTEE DATE: 1 23 92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Delane Donna Pelley	Derby KS	D & B Amoco
Elgin [illegible]	Marion, Ks	Cardie Oil Inc.
Dennis Anderson	Topeka, KS	KOMA
Shawn Harrelson	Topeka	KOMA
Judy Conklin	Topeka	Ks [illegible]
Wayne Reed	Minn Ks	Bennington Oil
Ed Haselwood	Berryton	Haselwood Oil
Virgil [illegible]	Valley Falls Kans	[illegible] Service
Ed Roitz	Pittsburg, KS	Fleming Petroleum Inc.
Bryan Deaver	Overland Park KS	Carter Petroleum
Craig E. Mueller	Marion	Cardie Oil Inc.
E. Mueller	Marion	Cardie Oil Inc.
P. MADELL	TOPEKA	KCC
TED FREERS	TOPEKA	TANK MANAGEMENT SERVICE
[illegible] M. Botkin	WICHITA	ROCK ROAD AMOCO
BUD ROAT	WichitA, KS	BUD ROATS AMOCO
Harold Clarke	Wichita KS	Clarke oil Co
John Reents	Wichita Ks	John's Amoco
[illegible]	Topeka, KS	KLPGA
VICKIE Woodbury	Topeka, KS	KLPGA
PAUL W. MATTHEWS	OKLA CITY, OK	HIGHWAY USERS FEDERATION
VERNON HAGER	COUNCIL GROVE	TOTAL STOP 2 SHOP
Jim Keele	Paola	B. L. E.
Tom Whitaker	Topeka	Ks Motor Carriers ASSN
[illegible] Silver	Lawrence	KOMA

GUEST LIST

COMMITTEE: HOUSE TRANSPORTATION COMMITTEE DATE: 1-23-92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Barb Koelling	Topeka KS	Capital City Oil
STEVE KEARNEY	" "	PETE McGILL
Michelle Lueoter	Topeka	KGC
Gary Wyancko	Merriam Ks	Carter Petroleum
Don Creel	Bartlesville, OK	Phillips Petroleum
[illegible]	Topeka	K Petroleum Council
Jim McBride	Topeka	[illegible]
Paul Cheek	Overland Park	Phillips Petroleum
Jim Glass	Bartlesville OK	Phillips Petroleum
Lora Boyer	Manhattan, KS	none
Chad Brooks	Riley County High School	
Jennifer Grand	Leonardville, KS	
Teresa Williams	Leonardville, KS	
SAM K CARTER	FINA MART W. TOPEKA BLVD, TOPEKA KS	CARTER PETRO PROD (INDEPENDENT)
Ken W SuTer	SACO PETRO. CORP. KCK	SACO PETRO
BOB OTT	SALINA, KS	OTT OIL CO.
Larry Triplett	Salina Ks	Triplett Inc

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the Kansas State Chamber of Commerce, Associated Industries of Kansas, Kansas Retail Council

HB 2628 **January 23, 1992**

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
House Transportation Committee
by
Bud Grant
Vice President and General Manager

Mr. Chairman and members of the Committee:

My name is Bud Grant and I am here on behalf of the Kansas Chamber of Commerce and Industry. I appreciate the opportunity to present comments on HB 2628, the Kansas Motor Fuel Marketing Act.

> The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.
>
> KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.
>
> The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

During the past interim when HB 2628 was being considered by the special committee, KCCI appeared and spoke in opposition to the bill. Our opposition was based on the proposition that free and unrestrained trade is the hallmark of this state and nation, and that it should not be squashed by the heavy hand of government.

House Transportation
1-23-92
Attachment 1
1-1

Keep in mind Mr. Chairman, KCCI has members on both sides of this issue. No matter on which side of the issue we come down, we lose. In most cases like this we avoid coming down on either side. But in this instance we found the bill so onerous, to remain silent would have been an affront to the free enterprise system.

Following the interim and after the interim committee decided to not take a position on the issue, KCCI was asked by the bill's proponents to take another look at the bill and to reconsider our organization's position. As a result of this request, the Chairman of our Board of Directors appointed a special task force to investigate, as best laypeople could, the pros and cons. This was accomplished on January 10 of this year with a meeting similar to the one being held today, with both sides heard from and with questions and answers.

With your permission Mr. Chairman, I will read the recommendation from the task force which will be presented to the KCCI Board of Directors for its consideration at its next meeting February 4.

> Price Controls. KCCI supports the system on which our economy is based, the free market system, and opposes any attempt to impose a system of price controls on any product, at any level. Such a step would be bad public policy and a precedent for spreading price controls to other retail products. KCCI supports fair trade practices and opposes predatory pricing in any segment of the economy. Where such practices exist, the use of federal anti-trust and predatory pricing statutes to halt such practices are urged.

I again emphasize Mr. Chairman that this statement is not official KCCI policy, but is consistent with the organization's bylaws and mission statement. I fully expect it to be adopted.

I will not delay the committee in its deliberations by reviewing all the arguments, pro and con. The proponents and opponents have done, and will do, that. However, in your deliberations I would urge you to keep in mind who the proponents are. Are they "the people" we have heard so much about?...I think not. No, what the proponents are is a group of sincere and honest business men and women who have chosen an ill advised solution to some very real problems within the industry. But that is just what they are, problems within the industry and I would urge those involved to get about the job of addressing these problems and not ask the public to pay for their solutions.

I urge you to do what AAA has asked you to do, what the Wichita Eagle has asked you to do, what the Kansas City Star has asked you to do, and what KCCI has now asked you to do, kill HB 2628.

Testimony of the Kansas Petroleum Council
Submitted to the House Transportation Committee

In Opposition to House Bill 2628
The Kansas Motor Fuel Marketing Act

January 23, 1992

Good afternoon, Mr. Chairman and Members of the Committee. My name is Ken Peterson. I am executive director of the Kansas Petroleum Council. I appreciate the opportunity to testify in opposition to House Bill 2628, the Kansas Motor Fuel Marketing Act.

The Kansas Petroleum Council is a trade association representing some of the member companies criticized by proponents of this legislation. Our member companies include Amoco, Texaco, Conoco and Phillips.

With me today are representatives from two companies with diverse marketing strategies for Kansas. They will testify against this bill, and I would defer questions about specific marketing practices to the experts. As even some proponents of this legislation admit, the bill is "very complicated," and I would prefer the company representatives answer questions about marketing.

My comments will be of a general nature. It is my hope this committee will not be swayed by the isolated anecdotes of a few disgruntled marketers and instead will focus on what has brought both sides into this room - the competitive retail market for gasoline sales. I also want to stress that the motoring public - your constituents - will pay the price if this legislation or any other effort to tamper in the marketplace is enacted.

Proponents would have you believe that the oil companies have devised some grandiose plot to drive them out of business. They rely on ominous sounding terms like "predatory pricing," a sure-fire way to stir the emotions against any business when times are tough. These charges are really nothing new, and have been discredited over and over by study after study.

Proponents have not made their case about predatory pricing. They have used brief time periods, "snapshots" if you will to make allegations against some company or the other. They have offered no proof, only brief story lines.

Few other industries have been subjected to such close government scrutiny as the petroleum industry. Charges of predatory pricing are really nothing new. Independent studies have shown that allegations of predatory pricing by refiners - the core allegation of this legislation - is not based on fact. The Departments of Energy and Justice, the Federal Trade Commission, the Washington State Attorney General's Office and, most recently, a special Arizona legislative committee have investigated charges of predation in the industry, and found no evidence of such practices by major gasoline refiners. Indeed, these studies have found that the fortunes of refiners and their distributors are closely linked.

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The Department of Energy, in testimony last year to the Georgia House Industry Subcommittee on Small Business, said, "Gasoline marketers sell gasoline to earn a profit. Any tactic that is contrary to maximizing profits from all distribution networks is irrational. The Department has asked many times why a refiner would intentionally sell below cost through its own distribution channels knowing full well that the competitive marketplace will never permit the refiner to recoup its losses in the future. The Department never has received a satisfactory response to this question precisely because there is none."

It is obvious that company-owned stores are a particular target of the proponents. They would have you believe that Council member companies have salary-operated stations on every street corner from Baxter Springs to Belleville and from Hays to Haysville. Ladies and gentlemen, that is simply not the case for the companies the Council represents. Council members have salary-operated stores in Kansas City, Wichita and Topeka.

Let me give you some examples. Conoco has 35 jobbers, 216 outlets and one company-owned store. Phillips is heavily jobber-oriented; that company's salary operated stores are only 7 percent of their retail outlets. Amoco has reduced its number of company-operated stores in recent years. I would refer you to an article attached to this testimony from the Wichita Eagle. Fina, one of the Council's member companies, closed eight company-owned stations in Wichita. If you read further, you will find a list of major competitors in the Wichita area, according to a Fina spokesman. Not one of them is a member of the Council.

According to the 1991 National Petroleum News Factbook, the authoritative source in our industry, 16 refiners market in Kansas. At least 20 different marketing entities are selling gasoline to Kansas consumers. Our state has more than 3,000 retail gasoline outlets, and according to the Factbook, our state is one that has kept up its number of outlets. Of that number, refiner-operated stations account for only about 5 percent of the total number of branded outlets in Kansas.

The legislation before you is known as a below-cost sales ban on gasoline. Contrary to what the proponents said, this legislation has the effect of raising gasoline prices. It has happened in other states; it will happen here. It has the effect of a tax increase, but instead of going for improved roads and bridges, the higher prices at the pump would go to a segment of the industry seeking insulation from a competitive free market.

These types of bills have many problems. The Department of Energy in 1985 concluded that seemingly innocuous below-cost selling laws cost the consumer $640 million in one year (1982). This finding was confirmed in a subsequent American Petroleum Institute research study of three states with laws specifically prohibiting below-cost sales of gasoline (Alabama, Florida, Georgia). The study examined the impact these laws had on gasoline prices and found increases ranging from one to six cents per gallon. The Office of Competition for the Federal Trade Commission has held consistently that below-cost sales bans have the effect of raising consumer prices and reducing competition. Georgia's below-cost sales ban law has since been declared unconstitutional, by the way.

This bill establishes a floor on gasoline prices. It has happened in states where this law was enacted; it will happen here. Under this bill, if one retailer's price is lower than a competitor, the competitor could seek a court injunction to block further sales and require complete disclosure of the defendant's cost of doing business. No proof of damages is necessary; no damage to competition must be proved. The question is, would a retailer dare lower his price, regardless of market conditions, if he faced the possibility of a nuisance suit? We don't think so.

Just the threat of a suit, where you would be required to prove your innocence, is enough to establish a floor price for gasoline.

The motoring public is not going to like this bill, and I understand the board of the Kansas AAA has expressed opposition to this bill in a letter to members of this committee.

All of us have been here this week because the gasoline retail business is highly competitive and margins (profits) are extremely low. Consumers benefit from that competition. Nationally, gasoline prices, adjusted for taxes and inflation, are at their lowest level since World War II. That is great for motorists, but the flip side is that everybody in this business, including the companies I represent, is feeling the pinch.

The nature of the gasoline business has changed, evolving from the traditional service station to convenience store and self-serve operations. Demand is off; cars get better mileage. Combined with the costs of operating a business, including underground tank replacement, the gasoline retail business has experienced increasing costs.

The Council is not here today to tell you that the proponents of this legislation are not having troubles. They are. These are not good times to be in the gasoline retailing business. But many other retailers are having problems, too.

This price-fixing bill that is the basis for this hearing is not the answer. We believe it will harm many of those who support it, including those seeking to compete along the state's borders. But if you believe that this legislation is so good and will be of such great benefit to the proponents -which we doubt- then let's make it apply to any commodity bought or sold in the state today. Why is the petroleum industry being singled out?

As I said at the outset, we oppose this legislation on philosophical grounds. We oppose any government interference in the marketplace. It is a form of price-fixing that will work to the disadvantage of consumers. Government tampering in the marketplace has not worked for the consumer in the past and schemes like this one will not work, either.

I encourage you to focus on the consumer aspect of this bill. You are being asked to fix prices and guarantee profits in a highly competitive marketplace where motorists decide what price they are willing to pay. They should continue to have that right, unhampered by government interference.

I have enclosed an executive summary of the gasoline market in North Carolina by two economics professors at North Carolina State. The study, in response to a below-cost proposal in that state, shows a diverse industry and vigorous competition. The professors concluded that passage of the bill was not in the best interest of the consumer or the competitive marketplace.

Attached to my testimony are editorials against this legislation by the Kansas City Star, the Wichita Eagle and the Salina Journal, as well as newspaper clips that show competition is the driving force in the gasoline business, not emotionally charged buzzwords that have been discredited time after time.

Thank you for your consideration and time.

The Salina Journal

Tuesday, January 21, 1992

Running on empty

Gasoline pricing law should be rejected

Members of the Kansas Legislature have a long, difficult session before them.

One small but beneficial way for them to lighten that load would be for them to make short work of a silly bill that would prohibit gas stations from selling gasoline too cheaply.

The House Transportation Committee is to begin hearings this week on a bill that would make it a crime for anyone to sell gasoline "below cost." That is, for less than they paid for it, or less than they would sell it to someone else, or something that may or may not be defined by law.

The bill is being pushed by independent gas station owners who claim that stations owned by the major oil companies are deliberately selling their gas below cost to drive the independents out of business.

That's American capitalism for you. Everybody believes in the free market until they think they might lose. Then they run to government to make the other guy "fight fair." It sounds too much like those American automakers who blame all their problems on the nasty old Japanese.

It isn't that we should like cheap gas. If anything, gas ought to be more expensive to encourage conservation, more efficient cars and the development of alternate forms of energy.

And it isn't that, someday, there might not be a genuine threat to independent gas stations posed by some giant gasoline version of Wal-Mart that Amoco or Conoco would build on the outskirts of town.

It's just that there is no such threat. Very few gas stations are owned by the big oil companies, and there are fewer of them all the time. Big Oil would be crazy to put the independent retailers out of business, because they are the ones getting their product to the consumer.

The proposal would hurt the consumer by removing an incentive to keep prices low, but none of the higher cost would go into research and development or transportation improvements. It would just go into the pockets of the retailers.

Worse, the bill would allow anyone who suspects his competition of selling gasoline below cost to get a restraining order and tie the whole thing up in court without anything approaching the proof a criminal prosecutor would need to file charges.

This bill is a complicated mess that would benefit only those gas stations that are too lazy, greedy or outdated to compete without handicapping their more efficient rivals.

Let us hope it runs out of gas very soon.

Kansas
Petroleum
Council

The Wichita Eagle
Established 1872
Incorporating The Wichita Beacon
Reid Ashe, *Publisher*

Davis Merritt, Jr. *Editor*
Keith Murray *General Manager*
Sheri Dill *Executive Editor*
Steven A. Smith *Managing Editor*
David Awbrey *Editorial Page Editor*

EDITORIALS

Kill it
Gasoline marketing bill would sting Kansas drivers right in the wallet

Unless legislators want to create a bonanza for lawyers and a disaster for consumers, they should oppose the Kansas Motor Fuel Marketing Act.

Proposed by the Kansas Oil Marketers Association, a consortium of independent gasoline retailers, the act would bar gas stations from selling gas below cost. The law is needed, says the association, to prevent "unfair competition." Its target is the dreaded Big Oil — companies that own both gas stations and refineries.

Unless the act becomes law, says the association, Big Oil will push gas prices so low that independent retailers, unable to keep up, will be run out of business. Then Big Oil will push gas prices so high that only the rich will be able to afford to drive.

Politically savvy Kansans will have already peered past this wild populist rhetoric and discerned the truth: What the independent retailers really want to do is protect their profits by restricting the competition's marketing strategies.

A more positive way for independent retailers to protect their profits would be to emphasize their strengths. Big Oil convenience stores, for instance, aren't set up to check under customers' hoods or check the pressure in tire that appear soft. Independent retailers are.

In any case, Congress has passed a slew of laws to punish those who lower prices to drive competitors out of business. Adding a state law to that mix makes no sense.

Besides, the bill is a horrible mishmash of language defining what constitutes below-price gasoline selling. Should it become law, it would provide a lifetime of billable hours for a regiment of lawyers.

The legislative Special Committee on Transportation must decide by next month whether to recommend the bill's passage to the Legislature. If the committee cares at all about the welfare of Kansas consumers, it will tell independent gas retailers to find some other way to cope with their competitors — and kill the bill.

Kansas
Petroleum
Council

THE KANSAS CITY STAR
Sunday, November 3, 1991

The wrong solution

Kansas gasoline retailers are upset about what they see as predatory pricing by major oil companies. But the solution they propose — a ban on the sale of fuel below wholesale prices — would be bad policy. A special committee of the Kansas Legislature is scheduled to vote on such a measure Monday. The panel should refuse to endorse it.

The Kansas Oil Marketers Association, representing the independent retailers, says oil companies are trying to drive them out of business by selling fuel at company-owned stations at less than the wholesale price charged to independents.

Policy-makers should be skeptical whenever those with a vested interest advocate "protecting" this or that group in the market. The real tipoff comes in an Oil Marketers Association fact sheet, which claims that its members seek only a "level playing field" — the same cliche used by the steel, textile and auto industries in seeking protection from foreign competitors.

The legislation suggested by the independents amounts to a statutory ban on bargain fuel prices for Kansas consumers. If the Oil Marketers have a good predatory-pricing case against big oil, they should proceed under federal antitrust law.

(913) 234-0589 • SUITE 1005, MERCHANTS TOWER • 8TH AND JACKSON STREETS • TOPEKA, KANSAS 66612

BUSINESS NEWS

Take heart, it could be worse

MONDAY PERSPECTIVE

What does Sedgwick County, Kan., have in common with Douglas County, Colo., and Plymouth County, Mass., and King County, Wash.?

Its real estate taxes.

That's what Money magazine's January issue says in a special report on property taxes in the nation's 300 counties with the highest mean incomes and population.

The four counties each were listed with $1,600 in property taxes on a median-valued house in an area in each county where affluent homeowners live, according to 1990 census figures.

Actually, Sedgwick County was ranked 179th among the 300, which placed it among those with the highest taxes.

Sedgwick County's tax was higher than the $1,200 in Johnson County (Kansas City area) and $1,100 in Shawnee County (Topeka). Those were the only other Kansas counties listed by the magazine.

But Sedgwick County property owners can take some solace. It could be worse. Much worse.

Let's take a look at a few of the counties with the highest property taxes.

There's Hudson, N.J., with a whopping $5,776. That figure placed it dead last, or 300th, the highest. Incidentally, the three highest counties are all in New Jersey.

Closer to Kansas, there's Collin County in Texas, with $2,519, which ranked it 259th; and Lake County in Illinois, with taxes of $2,250, good for 240th place.

As another part of its special report, Money ranked Kansas 25th for total annual taxes paid by a typical household that would subscribe to Money magazine. Figures are for a family of four with a total income of more than $73,000.

The total for Kansas is $6,144. It includes taxes on earned income, sales tax and even death tax.

Alaska has the lowest total, $2,013, and New York had the highest, $8,841.

That's a nice profit

Gasoline retailers are starting the year with some fat profit margins.

Prices in the Wichita market hit $1.09 a gallon last week — a hefty 24 cents a gallon above the typical dealers' costs.

This is in a business that aims for a 10-cent profit on each gallon of gasoline.

In the Wichita market on Dec. 27, the wholesale price of unleaded gasoline was 52 to 53 cents a gallon, according to Computer Petroleum Corp. State and local taxes and transportation costs add 32 to 33 cents a gallon to the typical retailer's costs.

This means the typical dealer last week paid 85 cents a gallon for gasoline that he, in turn, sold retail for $1.09 a gallon. Some dealers have higher wholesale costs. Still, Wichita dealers are enjoying unusually high profit margins.

Wichita isn't alone.

Profit margins nationally averaged about 20 cents a gallon last week.

"That's as high as I've seen it," said Mike Doyle of Computer Petroleum Corp., which tracks gasoline prices throughout the country.

Gasoline retailers may simply be trying to recover from this summer when profit margins were small to non-existent. "Everyone took a beating," said one retailer. Moreover, the fat profit margins are unlikely to last long.

"My observation, over the years, has been is that retailers can't stand such prosperity for long," Doyle said.

One tax break, coming up

In a ruling hailed as a victory for the country's home child-care providers, the Internal Revenue Service has said providers need not record the specific hours the rooms in their homes are used each day for child care when calculating business deductions.

Advocates said the ruling is a reversal of a previous IRS position that panicked providers and even drove some out of business.

The previous position, which surfaced in the audit of a home child-care provider in White Bear Lake, Minn., implied providers would have to keep records showing how many hours each room of their home was used for day care each day.

Under last week's ruling, if a room is available throughout the business day and is regularly used for day care, the square footage of that room will be considered as used for day care for the entire business day.

"It's a simplification of the record-keeping requirements," said Eric Smith, a spokesman for the IRS in St. Paul, Minn.

For example, a provider may have a bedroom available for child care throughout the business day for the children's morning and afternoon naps. Even though the bedroom is not used during every hour of the business day, the total square footage of that room is considered as day-care usage for the entire business day.

There are an estimated 750,000 home day-care providers around the country.

Contributing: Frank Garofalo, Guy Boulton and Dave Higdon of The Eagle; Associated Press

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LAWRENCE JOURNAL-WORLD Tuesday, Dec. 31, 1991 Page 2A

Local gas prices running higher than KC, Topeka

By STEVE BUCKNER
J-W Staff Writer

Gasoline prices in Lawrence, despite a slight decrease the past two weeks, are higher here than in Topeka and the Kansas City area, an informal survey revealed.

The American Automobile Assn. in Topeka reported that the gallon price for regular unleaded gasoline was as low as 84 cents at some stations there. Michael Wright, director of public affairs for the St. Louis AAA office, said the average price for regular unleaded in the Kansas City metropolitan area was 89.1 cents a gallon as of Monday.

In Lawrence, today's price for regular unleaded was 96.9 cents at the Vickers station, 846 Iowa, and 97.9 cents at the First Fuel Bank, 1500 E. 23rd. Those prices represented decreases of 2 cents for Vickers and 1 cent for First Fuel Bank since Dec. 18.

Wright said taxes are the leading reason for the price difference between Lawrence and the Kansas City area. He said the AAA surveys more retailers on the Missouri side to calculate its average, where the state fuel taxes are 5 cents less a gallon.

Wright said competitive pressure was probably the leading reason that Topeka gasoline prices were less than those in Lawrence. He said the number of gasoline wholesalers in an area is "another factor in the competitive strategy from one region to another."

Bob McBride, president of M&M Oil Co. Inc., 645 Locust, agreed.

"They've just got a more competitive situation, I guess," he said.

McBride said a pipeline brings gasoline into Kansas City, Kan., Olathe and Topeka.

"Consequently, we have a greater distance to haul it," he said.

McBride estimated transporting the gasoline to the Lawrence area would add three-fourths of a cent to 1 cent to the gallon cost of gasoline.

Nationally, gasoline prices are down about 26 cents from the same time last year, the AAA reports. The prices had increased in 1990 because of the Iraqi invasion of Kuwait, an action that led to the Persian Gulf War in January and February 1991.

Prices have gone down as the Kuwaiti oil fields come back on line. McBride said wholesale prices continue to be unstable "from one minute to the next."

KANSAS PETROLEUM COUNCIL
Suite 1005, Merchants Tower
Topeka, Kansas 66612

Here, stations compare prices

Max Evans
Daily News Reporter

Gasoline prices. The numbers move up and down. One day they're the lowest they've been in recent years, the next they're back up again — higher than usual.

This week in Olathe consumers saw prices at the pump, which had been hovering around 89 cents a gallon, suddenly rise about 10 cents at many stations. So what causes the fluctuations?

Some say the price at the pump follows the market price of crude oil. Others say it's related to the cost of refining and transporting the product. Still others speak of U.S. relationships with oil producing nations and Mideast politics.

What's the truth? All of the above, to some degree. But others say the main reason is more like, "If the place down the street is getting a few cents more a gallon, then we can too."

Clerks at five service stations in Olathe said Friday their prices were based on what the other guy is getting for his gas. The store clerks, who wished to remain unnamed, each said he or she began each shift by driving around town and determining what the average, or more accurately, what the going price is for a gallon of gas.

"We see what the AMOCO station is charging and we charge the same," said a clerk at a Phillips station just down the street from the AMOCO.

> 'We see what the AMOCO station is charging and we charge the same.'
> — Phillips station clerk

That Phillips is privately owned so the clerks need no authorization to change prices to reflect the local market. Other clerks said they needed to speak to local chain owners or distributors before moving the magic numbers.

"We have to call the local distributor, and they call us back and tell us what to do," the attendant at an east side Phillips station said.

An AMOCO station right across the street calls headquarters in Chicago and relays local prices, the clerk said. Chicago calls back and usually tells them to adjust their prices accordingly, he said.

Dan Stevens, public affairs manager for Texaco in Tulsa, said local pricing of gas is normal.

See GAS, Page 2A

GAS from Page 1A

"Our prices are in reaction to what the competition is doing," he explained.

Stevens said Kansas City and the entire Midwest was a "very, very competitive market." Also, there is a surplus of refined gasoline right now, he said, and the surplus usually means cheaper prices.

"There is an awful lot of product in the country and an awful lot of product on the market," Stevens explained.

Sam Carter is president of Carter Petroleum Products Inc. in Kansas City, Mo. He said most independent gas suppliers also own convenience stores as an outlet for their product. He said although a convenience store may sell many items, gasoline was unlike the other wares.

"You might think it's odd, but wholesale prices on gasoline have no connection with the retail prices," Carter said. "If the bread man comes in and says bread went up a nickle, you run out and raise the price of bread five cents. If the pop man comes in and says the price of pop is going up a dollar a case, you raise pop a buck. But gasoline is strickly competition driven. There is no correlation with wholesale prices.

"We could ride around Kansas City and see any number of places selling gasoline below cost."

Carter said the stations sell below costs in an attempt to gain customers.

"If the other guy is selling gasoline for a few cents less than me, by the end of the day I'm going to have no one in my station and he's going to have a line.

"At the same time, there is such a slim margin in gas that if he raises his price you're going to follow, because those few cents may be the difference between making a few cents a gallon or selling at cost."

2-10

Hutchinson News Thursday, Jan. 2, 1992 Page 3

Falling price of crude oil spurs drop in gas prices

By Sara Peterson-Davis
The Hutchinson News

After months in the triple digits, Hutchinson's retail gasoline prices have dipped below the dollar mark in the past two weeks.

On Tuesday, the average price for self-service unleaded gasoline in Hutchinson was 96 cents a gallon.

"The reason it's below a dollar is the wholesale price has gone down," said Pete Egbert, co-owner of Town Pump, 500 North Monroe.

Before prices dropped, Egbert said, wholesale gas prices were about 96 cents a gallon. Now, retailers said, the price is 89 to 90 cents a gallon.

"Crude oil is down quite a bit," said Elmer Bridgman, of Bridgman Oil Co. Inc., a petroleum wholesaler. "That's what's done it."

Crude oil prices have dropped from $15 and $21 a barrel in late November to $15 and $18.75 Monday.

The lower prices make easier the jobs of everyone in the gas business, Bridgman said.

"People are more willing to buy gasoline when the price is down," he said.

While the wholesale rate sets a base for gas prices, station owners said competition in the market also has an effect on retail gas prices.

"When I come to work every morning to open up the station, I check the prices of my competition," said Ron Spitler, owner of Spitler Service Center. "To be competitive, you have to."

Butch Potter, of Potter's Service, agreed.

"We just follow the competition," he said.

With wholesale prices at their current levels, Spitler said, to keep pace with his competition he can add another 5 to 6 cents a gallon. Earlier in the year, he said, the market allowed only a 4-cents-a-gallon markup.

It might sound as if station owners are seeing a windfall from the lower wholesale prices, but Spitler said he now has to figure insurance for underground storage tanks into his overhead.

The insurance runs about $350 a tank.

Kansas
Petroleum
Council

Friday, November 8, 1991 THE WICHITA EAGLE

Fina retrenches, shuts local stores

By Guy Boulton
The Wichita Eagle

Fina closed its eight company-owned convenience stores in Wichita this week as part of a broad nationwide retreat from its most competitive markets.

The Dallas-based company, which owns convenience stores through its FinaServe subsidiary, has less than 1 percent of the retail gasoline market in most of the 24 states in which it operates.

"To be profitable in a market, you need to have 7 to 10 percent of the market," Fina spokesman Rick Hagar said.

If a company has less than 7 percent, he added, "you live and die by what the guy across the state is doing."

A company with a large market share can influence the market, for example, by lowering its price.

"You set the pace of the market yourself," he said. "You are not relying on someone else to do it."

The stores were closed after Fina was unable to find a buyer.

"The reason we couldn't find a buyer is because there is too much competition in Wichita," Hagar said.

The Wichita market, he said, is dominated by Quik-trip, Town & Country and Coastal Corp.

The typical convenience store costs about $1 million to build and employs four to six people full-time. Hagar said some store employees have been offered jobs in Dallas.

The company still hopes to find buyers for the property. Some of the sites are good locations for other businesses, Hagar said.

Stores not owned by the company will continue to sell Fina brand gasoline, and Fina will continue to sell wholesale gasoline in Kansas.

Fina is a fully integrated oil company with $4 billion in revenues last year. The company is 85 percent owned by Petrofina S.A., a Belgium company.

COMPETITION IN THE NORTH CAROLINA GASOLINE MARKET

Dr. Edward W. Erickson
Professor of Economics, NCSU

and

Dr. Craig Newmark
Associate Professor of Economics, NCSU

April 1991

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EXECUTIVE SUMMARY

This study analyzes the state of competition in the North Carolina gasoline market. A survey of 12 major refiners that supply gasoline to the North Carolina market was conducted. The survey results are an important part of the empirical basis for our conclusions that the North Carolina gasoline market is highly competitive. The legislative intervention in the gasoline market proposed by House Bill 557 will impede competitive processes and cause North Carolina gasoline consumers to pay higher prices than otherwise would prevail.

The empirical highlights of our analysis of the North Carolina gasoline market show a diverse industry and vigorous competition:

1. There are 10,000 retail outlets in North Carolina that sell gasoline to the motoring public.
2. Only 371 of these outlets--less than 4%--are directly supplied by refiners (Table 1 and Figure 1).
3. Over the 1980-1990 period, the refiners surveyed acquired 154 stations through purchase or lease and sold or relinquished 342 stations (Table 2 and Figure 2).
4. Independent jobber-marketers, lessee-dealers and refiners all compete functionally and individually in

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the gasoline market (Figure 3).

5. Refiners have very diverse competitive approaches to whether and how they directly supply retail gasoline outlets in North Carolina (Table 3 and Figure 4).

6. Refiners invested $91 million in station improvements in North Carolina over the period 1980-1990 (Table 4 and Figures 5 and 6).

7. The trend in the number of stations refiners directly supply has been generally downward, but within this overall trend the number of refiner salary or contract operated stations has increased (Table 5 and Figure 7).

8. The trend in real gasoline prices has been generally downward since 1960. In early April, 1991, real gasoline prices of $1.13 per gallon were lower than the annual averages for 1990, 1985, 1980, 1975, 1970 and 1960 (Table 6 and Figure 8).

9. There has been a competitive restructuring of the market for automotive services and national chain outlets such as Goodyear, Jiffy Lube and Midas Muffler now supply services also supplied by traditional gasoline service stations (Table 7).

10. Since the early 1980s, competitive innovations in gasoline marketing have decreased the number of retail outlets by 33% while the number of gallons sold per outlet increased by 76% and the number of gasoline nozzles per retail outlet increased by 121% (Table 8).

11. The real price of crude oil is less than 50% of what it was in 1981 and lower than at anytime in the period 1974-1985. Substantial fluctuations in real crude oil prices--both up and down--are reflected in competitive processes in gasoline markets (Table 9 and Figure 9).

12. Independent wholesale jobber-marketers buy gasoline at rack prices that are more volatile than the delivered dealer tank wagon (DTW) prices that retail lessee-dealers pay. This differential volatility is a common feature of wholesale and retail markets throughout the economy (Figures 10 and 11 and Tables 10 and 11). The relative competitive position of jobber-marketers tends to improve when prices are falling and that of lessee-dealers when prices are rising. This result is reflected in the market for political intervention into gasoline markets.

13. The quality of branded gasoline supplied by major refiners is better than that of other brands on the basis of data collected and tabulated by the National Institute for Petroleum and Energy Research (Table 12).

14. The decline in the number of retail gasoline outlets in North Carolina has paralleled a similar national decline (Table 13).

15. The increase in gasoline sales per retail outlet in North Carolina has paralleled a similar national increase (Tables 14 and 15).

16. Predatory pricing is not a satisfactory explanation for competitive developments in North Carolina gasoline markets because there are too many refiners using very diverse marketing approaches.

17. The competitive structure of U.S. petroleum refining is less concentrated and more competitive than many markets in the highly competitive U.S. textile industry (Tables 16 and 17).

18. The competitive structure of the North Carolina gasoline market is also less concentrated and more competitive than many markets in the highly competitive U.S. textile and apparel industries (Tables 18 and 19 and 16 and 17).

19. In those states where there has been political intervention in gasoline markets, the ultimate results have been to reduce the effectiveness of competition and to cause consumers to pay higher gasoline prices (Table 20).

It is on the basis of these empirical findings that we conclude that the political intervention in the North Carolina gasoline market proposed by House Bill 557 is not in the best interests of North Carolina gasoline consumers. The restrictions imposed by House Bill 557 will make the market more cumbersome and deny North Carolina gasoline consumers low price initiatives that they would otherwise receive.

Statement of
Phillips 66 Company
a Division of PHILLIPS PETROLEUM COMPANY
Before the HOUSE TRANSPORTATION COMMITTEE
State of KANSAS
on Subject Matter of **House Bill No. 2628**
MOTOR FUEL MARKETING ACT

I am Jim Glass with Phillips 66 Company, Marketing Division from Bartlesville, Oklahoma, and I appreciate the opportunity to testify on the subject matter of House Bill 2628.

PHILLIPS PRESENCE IN KANSAS. Phillips has $178 million in assets in the state of Kansas and pays almost $10 million in state taxes. There are over 200 Phillips employees in the state with a payroll of $7 million. In addition 2,600 owners of the Company, i.e. shareholders, reside in Kansas. As you can see, Kansas is an important state to Phillips. The marketing of Phillips gasolines actually began with the location of the first retail station in Wichita.

PHILLIPS GASOLINE MARKETING. Phillips is predominantly a jobber-oriented company. The majority of Phillips gasolines are marketed to the general public through independent local jobbers and the stations they supply. In Kansas, at last count, there were a total of 323 stations selling Phillips products. 298 of these are served by 62 independent wholesale jobbers scattered across the state. Only ~~25~~ 23 stations are owned and operated by Phillips.

One of the primary goals of the company-operated units is to provide an acceptable rate of return on the station investment over and above product sales through the jobber channel of distribution. Phillips does not subsidize its retail operations with refinery margins or from its parent's exploration and production operations. It would be surprising to find a company in the petroleum business that does. Each company-operated station must stand alone and make a profit based on wholesale terminal price (the same price jobbers pay) or we'll get rid of it and put those dollars to work somewhere else.

Additionally, the knowledge gained from the company-operated units in how to supply changing consumer demand as efficiently and low-cost as possible, is shared with our marketers and their dealers. Training schools on convenience store operation, business management, and merchandising techniques are offered to help them keep up with the dynamics of the marketplace. Assistance is also provided toward the cost for new construction and/or renovation to meet the public demands for clean, first class stations, convenience and fast service.

Phillips meets the competition independently at both levels, wholesale and retail. Wholesale prices are reviewed daily giving consideration to market factors and what we think our competitors are going to do. At the retail level, each company-operated station sets its prices daily to meet nearby competitors' retail pump prices. The most important point to understanding gasoline pricing patterns is to recognize that wholesale and retail prices are separate markets, the same as any other consumer item - they do not necessarily run in tandem - up or down. Sometimes this hurts jobbers, dealers and refiners operating at retail, such as when wholesale prices are rising quickly and retail prices are rising more slowly. Sometimes this benefits jobbers, dealers and refiners operating at retail, such as when wholesale prices are falling, but retail prices are holding steady.

House Transportation
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HOUSE BILL 2968. This particular bill attempts to insure profits on every item for all market participants, 365 days a year. I know of no other business that can make this claim. Phillips is philosophically opposed to this legislation, even though we stand to gain from it if it would work as the proponents claim. In effect, it else to follow, in order to stay out of court, by using phony costs instead of encouraging cost reduction for the benefit of the consumer.

This is a highly competitive business and there are times when profits are slim as well as times when they are good. It has always been that way and it always will be in a free market. All retailing businesses operate under these conditions, not just those engaged in gasoline marketing. The industry is going through particularly tough times now because of the additional high costs associated with stopping or reducing pollution of soil, water and air. Furthermore, demand for gasoline in Kansas has declined each of the past three years, 1989, 1990, and 1991, causing additional pressures on the industry as station operators are fighting to maintain sales volume and protect their investment.

I estimate that the minimum prices a refiner could charge in a company-operated station would be somewhere between 18 and 20 cents per gallon above wholesale price according to the language of this bill. With higher margins on the premium products, another two to three cents would be added. This bill would have the same effect as adding as much as ten cents additional tax with marketers of petroleum products pocketing the money, not the state.

Highly efficient, low cost operations are necessary in order to survive under today's tough marketplace conditions. Legislating minimum prices which will lead to higher prices to Kansas consumers is not the solution to current market stresses. We urge you to oppose this legislation because its price control provisions will severely disrupt a competitive marketplace, creating advantages for a select few at the expense of other competitors and Kansas consumers.

Thank you for your time. I will be happy to try to answer any questions you may have.

STATEMENT OF

TEXACO REFINING AND MARKETING INC.

BEFORE THE

KANSAS HOUSE TRANSPORTATION COMMITTEE

H. B. 2628

January 23, 1992

Topeka, Kansas

House Transportation
1-23-92
ATTACHMENT 4

Texaco markets in Kansas through 16 Texaco branded wholesalers, 2 independent Texaco branded retailers, 7 independent Texaco branded truckstops and 23 retail outlets that are operated by the company. At this time, Texaco-branded wholesalers have about 95 of their own branded accounts to which they deliver. About 50 percent of the Texaco gasoline volume sold in Kansas is sold to branded wholesalers. Gasoline wholesalers play a very important role in the distribution of gasoline in Kansas and all states. Texaco wholesalers are no less important in getting our motor fuels and lubricants to the marketplace.

Before commenting on H.B. 2628, we would like to address a recent press release issued by the Kansas Oil Marketers Association. It infers that all revenues collected by majors are sent out of state while revenues of independent retailers and wholesalers stay in Kansas. You should know that in 1990, the most recent period that data is available, Texaco: (1) paid a gross payroll of over $31.5 million to some 880 Kansas-based employees; (2) paid the State of Kansas over $6.6 million in direct taxes; (3) has invested over $104 million in Kansas from 1988 through 1991; and, (4) just recently commenced a $125 million project at our El Dorado refinery. While some of our revenues might leave the state, a significant amount of revenue returns to Kansas.

One of the most important responsibilities a company has is to make a profit. However, it is ironic that we find ourselves opposing a bill that could make that task a little easier. That is because, if enacted, H.B. 2628 could establish a floor price below which motor fuels could not be sold. The effect would be to restrict competition and raise all motor fuel prices to everyone.

Texaco supports fair competition, allowing the marketplace to determine success or failure. It opposes governmental intervention into this same marketplace that would distort or destroy competition. H.B. 2628 is such a measure because it is anti-competitive, anti-consumer, and, if passed, would precipitate frivolous litigation by disgruntled competitors who are either unwilling or too inefficient to compete and the burden of proof is placed upon the "accused." The accuser need only "presume" that a competitor is selling below his replacement cost to file a complaint and haul that competitor into court! Truly, a plaintiff's attorney's windfall.

Notwithstanding that feature of the bill, one of the basic problems with H.B. 2628, or any bill trying to prevent a competitor from selling below his replacement cost, is the presupposition that the sale of every gallon of gasoline at a retail station must be made at a profit, otherwise there is an assumption that the retailer is engaging in predatory pricing (unless he meets some of the exceptions to such practice).

In fact, of course, Texaco has no control of external events; the demand for motor fuel at the consumer level is not constant, and so many factors affect the price at which the product is sold that it would be unrealistic and unfair to make a presumption of predatory conduct against a refiner- retailer (or any other retailer) because a profit is not made on every single gallon of gasoline sold on any particular day. Everyone remembers the invasion of Kuwait by Iraq in 1990 which caused world crude oil prices to double in a very short period of time, pushing fuel prices up equally as rapidly. Due to the rapid escalation of crude oil prices and not knowing where they might settle, it is very likely that the replacement cost of the crude oil was not recovered in product prices. While this occurrence was an anomaly, it illustrates the point that when you are in business, especially one so affected by world events and economics, you may not always be able to make profit on every item sold.

Another basic problem with these types of proposals is that they attempt to define what a competitors "costs" are, usually starting with a product invoice price and then adding the "cost of doing business" such as labor, salaries of executives and officers, rent, interest expense, depreciation, maintenance, etc.

First of all, it is unlikely that any business person could calculate these costs for a given day in order to allocate such costs to a gallon of motor fuel. Some cost, such as taxes, insurance and loss due to breakage or theft, may not be known until a certain time of year, and therefore, could not be allocated to a gallon of motor fuel sold prior to the day when the cost(s) are known.

Secondly, these costs are going to be entirely different for each competitor. All gasoline starts as crude oil, whose price is constantly moving up and down, and all oil companies, having different business expenses and efficiencies, sell this same product at different prices.

And thirdly, allocating these costs to a gallon of fuel, even if they were known, would be almost impossible because the seller's sales volume will not be known until the close of a particular sales period. For example: if a retailer expects to sell 10,000 gallons of gasoline in a given period (day, week, or month), he would have to allocate a certain portion of overhead to each of the 10,000 gallons he expects to sell and price his fuel accordingly. But, if he sells only 5,000 gallons in that time frame due to unforeseen market conditions, he has probably sold his product "below cost" because he has not recovered his overhead for the period.

It is quite possible and, indeed probable, that this bill will not only harm the very class of trade it purports to help, but in the final analysis, will also have the effect of raising prices to the ultimate consumer. Texaco urges you to reject H.B. 2628.

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