

Approved: 2-12-98
Date

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary K. Hayzlett at 1:40 p.m. on February 10, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. Aurand

Committee staff present: Hank Avila, Legislative Research Department
Reed Holwegner, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
J. Patterson, Committee Secretary

Conferees appearing before the committee: Representative Dennis McKinney, Greensburg
Cheryl Beatty, City Manager of Kingman
Ken Black, Kansas Assoc. of Airports President
Chris Wilson, Kansas Agriculture Aviation Assoc.
Dean Carlson, Secretary of Transportation
Gene Johnson, Kansas Alcohol Safety Action Project
Amelia McIntire, Legal Counsel for Kansas Wildlife and Parks

Others attending: See attached list

HB 2737 - Taxation of aviation fuels, disposition thereof

Representative McKinney was the first proponent to speak at the hearing. He feels that now is the time to the improvements started at the airports and by creating a six cent per gallon excise tax on aviation fuel it can be a long term solution. (Attachment 1) Representative Powers questioned if the six cents tax was for everyone flying into the airport. Only those exempt will not have to pay. Representative Shore commended Representative McKinney on the job he has done on this bill. Representative Schwartz questioned where the money would be appropriated from. The Division of Aviation can decide where the allocations will go.

Cheryl Beatty, Kingman City Manager, was the second proponent to testify on **HB 2737**. She provided the committee with photographs of the Kingman Airport to show the deterioration. She also provided a video that a local news program did on the condition of the airport. The Kingman Airport has been given a 5 out of 100 in a recent survey from K-TRAN. (Attachment 2) Representative Powers questioned Ms. Beatty about what money was available from the city. Representative Shore raised the question about the availability of county funds. No funds are available. Whether a small airport can actually be shut down for poor conditions was asked by Representative McClure. Usually alternative runways are used, but Ms. Beatty pointed out that there has been damage to planes from the poor runway surface.

The President of the Kansas Association of Airports, Ken Black, was the third proponent. He provided the vital statistics of 48 Kansas airports. (Attachment 3) Representative Howell asked Mr. Black if he supported that the bill redirect sales tax money and he replied that yes they do.

Chris Wilson of the Kansas Agricultural Aviation Association testified in favor of **HB 2737**. Their members use the municipal airports. In some cases, aerial applicators are the only businesses operating in the airports. (Attachment 4)

Secretary of Transportation Dean Carlson was the last to testify. He would like the committee to defer action on this proposal and consider state assistance for airports when the time comes to discuss a comprehensive transportation program. (Attachment 5) Representative Shore feels that the airports should take precedence over the racetrack in Kansas City. Representative Howell would like to put something in place now so the airports won't have to wait until the next session. Representative McKinney doesn't want to wait until next session to see the airport problems addressed. Representative Thimesh questioned whether the funds generated from **HB 2737** could be used for preventative maintenance rather than construction. Secretary Carlson responded

that preventative maintenance only solves the problems temporarily. Representative Schwartz asked for a timeline for the comprehensive transportation program. Secretary Carlson feels that it could be in place by July 1, 1999.

The hearing on **HB 2737** was closed.

HB 2306 - Boating under the influence of alcohol or drugs.

The hearing was opened with Amelia McIntire as the first proponent to testify. She is with the Kansas Department of Wildlife and Parks. (Attachment 6) Representative Hayzlett asked what the current procedure is for the enforcement officers. As of now, they take the occupants to the shore and do their testing. **HB 2306** would allow the officers to do the testing in the occupants boat.

Gene Johnson of the Kansas Community Alcohol Safety Action Project Coordinators Association testified second as a proponent of **HB 2306**. (Attachment 7)

The hearing on **HB 2306** was closed.

HB 2686 - Apportioned fleet registration, permanent plates and cab cards

Chair opened up discussion on the bill.

Representative Shore made the motion to pass favorably, Representative Dillon seconded and motion was carried.

HB 2690 - Riding bicycles in a single-file; exceptions.

Chair opened up discussion on the bill. Several of the committee members voiced their objections on this bill. Action on the bill was delayed until further information on other bicycles laws could be reviewed.

The minutes of February 3, 4, and 5th were presented.

Representative Dillon made a motion to approve the minutes, Representative Dreher seconded and the motion was carried.

The meeting was adjourned at 3:07 p.m.

The next meeting is scheduled for February 12, 1998.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2-10-98

NAME	REPRESENTING
Bill Watts	KDOT
MIKE ARMOUR	KDOT
Nancy Bogina	KDOT
E. Dean Carlson	KDOT
Deann Williams	KmCA
Carl Hill	Ks Motor Carriers Assn.
Stew Richards	Yellow Corporation
Tom Whitaker	Ks Motor Carriers Assn.
KEN BLACK	KANSAS ASSC. of AIRPORTS
Cheryl Beatty	CITY MANAGER - KINGMAN
Chris Wilson	KS Ag Aviation Ass'n
Tom Smith	Interested Pilot
Jim Gregory	Raytheon Aircraft
JARED RIEDL	
Deland Stone	Per Stone
Bob White	KIDOR
Don Cowley	DOB
Sally Finney	Ko. Public Health Assn.
J. Carter	Raytheon Aircraft

Carolyn Mulder

KSAWA

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER
UTILITIES
MEMBER
ENVIRONMENT
FISCAL OVERSIGHT
TRANSPORTATION

Testimony On House Bill 2737
House Transportation Committee
February 10, 1998

Thank you for the opportunity to testify in support of HB2737. The bill has three essential components.

1. The bill creates a six cent per gallon excise tax on aviation fuel.
2. Aviation fuel is automatically exempted from the state sales tax by the imposition of the excise tax (KSA 79-3606a). Thus, the aviator pays the same or less in taxes.
3. Money from the excise tax is channeled into an airport improvement fund. From there the money funds the airport improvement program already on the books but which has gone unfunded for several years. It leverages improvements through 50/50 matching grants with communities. Key: the money never touches the state general fund.

Some will tell you that we should just appropriate money from the SGF. But let's be realistic, this has been discussed for many years and it does not get done. Airports do not compete well in the general fund appropriations process. And, HB 2737 provides a long range approach to airport improvement by using the same user fee concept we employ for the highway fund.

Some will also tell you that now is not the time for HB2737. I know we have been trying to address this problem since at least 1994 and nothing has been done. In the meantime our airport infrastructure has deteriorated badly. NOW IS THE TIME to get the improvements initiated, and get them started with a long term solution.

Legislative Research is distributing data reflecting that Kansas is 50th in spending per airport, per aviator, and per capita. NOW IS THE TIME to get the improvements started, with a long term program, not a general fund appropriation.

Thank you for your time and attention.

House Transportation
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Attachment 1

CITY OF KINGMAN

Regular meetings every second, fourth, and fifth
Thursday of each month.

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FAX 316-532-2147

City Attorney
Geisert, Wunsch & Watkins Law Firm
CURTIS E. WATKINS

Chief of Police
JOHN BRADEN

City Clerk
CINDY CONRARDY

Electric Supt.
IRA M. HART III

Supt. of Streets, Sewer, & Water
DALE ROBINSON

Commissioners
JACK D. FORD
DUANE HANNA
RONALD KINSLER
DON L. MASON
MAX MIZE
City Manager
CHERYL S. BEATTY

Date: February 10, 1998
To: Gary Hayzlett, Chairman
Transportation Committee
From: Cheryl S. Beatty, City Manager
RE: Testimony in Support of House Bill Number 2737

I come before you today to express the City of Kingman's support for House Bill Number 2737. We encourage your final adoption of this measure for two reasons:

1. It will provide funds for the more immediate needs of airports in Kansas such as the needs at the Kingman Municipal Airport, and
2. It will address the needs beyond that which is to be implemented by a new comprehensive transportation plan.

To address each of those points let me start by giving you a brief background report regarding the Kingman Municipal Airport. The Kingman Municipal Airport was built in 1946. It has an asphalt runway 50' x 3,900' with one grass crosswind runway. The asphalt runway has been resurfaced twice since it was built, the runway lighting system was overhauled two years ago and in 1971 an aircraft apron and a 720 square foot terminal building was constructed. The apron surface is asphalt with 7 tie-down spaces with an addition 15 more tie-downs in the grassy area north of the apron. There are 17 private hangers located at the airport with 23 base planes and three businesses operate at the Kingman Airport. The above investment, improvements, and the annual maintenance dollars has been funded by local tax dollars and individual investors.

My direct point being that the City of Kingman, until now, has been able to operate and maintain its' airport without state and federal assistance. As you well know the cost of building new roads and new airport runways has skyrocketed over the last 15 to 20 years. So much so that it is difficult for small local governments to make the large capital improvements needed. The Kingman Municipal Airport asphalt has outlived its useful life. Our consulting city engineer has advised us that putting more dollars into patching or overlaying the surface would be equivalent to lighting a match to those dollars. Time has run out! Please let me repeat this—Time has run out! I don't say this to be dramatic! I simply ask for your support to provide funds to general aviation airports because there is a valid need. I have given you a copy of a news story produced by Channel 12 News that aired January 14, 1998, that shows the condition of the Kingman airport by video and I leave with you photo documentation of the Kingman Municipal Airport.

In addition, attached to this testimony are four pages of a report from the Kansas Department of Transportation labeled *Assessment of Pavement Condition of General Aviation Airports in Kansas*. The second page indicates that the Kingman Municipal Airport doesn't have a drainage problem. The third page shows you that the Kingman Municipal Airport pavement condition received an impressive 8 points in 1995 and 5 points in 1997 out of a possible 100 points. On the fourth page you will see that the Pavement Condition Index rating shows that the Kingman Municipal Airport has a FAILED runway.

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Attachment 2

Therefore, I do not cry wolf! As you will see from the video, the KDOT report, and the photos showing the severe longitudinal and lateral cracks and pavement breakup, we have a serious problem that we are trying to solve. The Kingman Municipal Airport Board has worked through an Airport Master Plan. The City Commission has increased the airport mill from ½ mill to 6 mills to build equity. We are asking you and the Kansas Legislators to provide funding in a state budget line item that has read zero for so many years. We need your assistance now!

Ten months ago I came to Kansas to be the new city manager for the City of Kingman. The City Commissioners gave me a list of items that needed immediate attention. Very high on that list, second to be exact, was the need to reconstruct our airport runway. I was literally shocked to find out that the State of Kansas, home of the “air capitol of the world”, has no dollars set aside for capital improvements for general aviation airports. I was further amazed to find out that Kansas is the only state does not have funds for capital improvements for their general aviation airports. I do not believe this fact is a bragging point to carry with us in discussions of economic development and quality services that are offered in Kansas.

House Bill 2737 is a starting point to meet the general aviation needs across our state. I attended my first Kansas Association of Airports meeting last month and learned that nearly 10 million dollars in infrastructure improvements is needed in our Kansas general aviation airports. House Bill 2737 is the first step. Airport funding must also be addressed in the new comprehensive transportation program that may come before you in a year or two to fully address the needs that have been so long ignored.

Thank you today for allowing us to bend your ear on this very important funding need. I have always believed that you must take small steps first to achieve very large goals.

Again, House Bill 2737 is must to begin addressing and continuing to address the Capital Improvement Program needs for general aviation airports in the State of Kansas

Report No. K-TRAN: KSU - 95-2
Final Report

5/1-

ASSESSMENT OF PAVEMENT CONDITION OF GENERAL AVIATION AIRPORTS IN KANSAS

Mustaque Hossain
Mohammed Shoeb Uddin
Kansas State University
Manhattan, Kansas



July 1996

K - TRAN

A COOPERATIVE TRANSPORTATION RESEARCH PROGRAM BETWEEN:
KANSAS DEPARTMENT OF TRANSPORTATION
THE KANSAS STATE UNIVERSITY
THE UNIVERSITY OF KANSAS

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**DRAINAGE SURVEY, JUNE 1995.
KINGMAN MUNICIPAL AIRPORT
RUNWAY 18 - 36**

DATE : June 15, 1995.

SURVEYED BY: Shoeb

DISTRESS SIGNALS

1. Ponding of water in undesirable areas.
2. Build-up of soil at pavement edge preventing runoff.
3. Eroded ditches and spill basins.
4. Broken or displaced inlet grates or manhole covers.
5. Clogged or silted inlet grates or manhole covers.
6. Broken or deformed pipes
7. Backfill settlement over pipes.
8. Erosion around inlets.
9. Generally poor shoulder shaping and random erosion.

Distress Signal	Quantity or Extent of Distress Signal Present	Overall Drainage Condition
2	To some extent along about 50% of the runway on one side.	GOOD
2	To some extent along about 25% of the runway on other side.	
	Tall grass on the runway pavement edge which may prevent runoff.	

TABLE 7: PAVEMENT CONDITION PREDICTION SUMMARY (JUNE 1997)

AIRPORT	RUNWAY	SECTION	LAST PCI (JUNE 1985)	PRED PCI (JUNE 1997)
Anthony Municipal	17 - 35	C1	49	46
Anthony Municipal	17 - 35	E1	48	43
Clay Center Municipal	17 - 35	C1	59	55
Clay Center Municipal	17 - 35	E1	61	56
Eureka Municipal	18 - 36	C1	41	37
Eureka Municipal	18 - 36	E1	42	38
Herington Municipal	17 - 35	C1	24	21
Herington Municipal	17 - 35	E1	45	43
Junction City Municipal	18 - 36	C1	48	45
Junction City Municipal	18 - 36	E1	60	55
Kingman Municipal	18 - 36	C1	08	05
Lamed Pawnee County	17 - 35	C1	12	09
Lamed Pawnee County	17 - 35	E1	35	31
Miami County	02 - 20	C1	57	53
Oakley Municipal	16 - 34	C1	46	43
Oakley Municipal	16 - 34	E1	49	46
Oberlin Municipal	17 - 35	C1	29	26
Osage City Municipal	17 - 35	C1	71	63
Phillipsburg Municipal	13 - 31	C1	55	52
Phillipsburg Municipal	13 - 31	E1	63	58
Russell Municipal	16 - 34	C1	34	31
Russell Municipal	16 - 34	E1	35	31
Scott City Municipal	17 - 35	C1	74	66
Scott City Municipal	17 - 35	E1	78	68
Ulysses	12 - 30	C1	45	42
Ulysses	17 - 35	C1	95	88
Ulysses	17 - 35	E1	88	92

Note : C1 - Center Section; E1 - Edge Section

About 25 to 30 percent of the sample units were inspected to assess the pavement condition in summer of 1995 using the ASTM D 5340 -93 procedure. Since the survey was performed at the network level, the sample size was considered adequate. However, when actual projects are to be surveyed, higher sampling rate should be used. The samples surveyed for each of the airfields are shown in the Appendix D. After completion of the survey, the distress data was entered into the Micro PAVER database. Using these distress data, Micro PAVER automatically calculated the Pavement Condition Index (PCI) value for each of the sections defined. A PCI report, generated by Micro PAVER, is included in the Appendix E. The qualitative rating of a pavement section based on the PCI values is as follows:

PCI Range	Rating
0 - 10	Failed
11 - 25	Very Poor
26 - 40	Poor
41 - 55	Fair
56 - 70	Good
71 - 85	Very Good
86 - 100	Excellent

← KINGMAN

Table 5 lists PCI values for the pavement sections in this study. Table 6 and Figure 4 illustrate the results. The results show that as of June 1995, the percent airfield sections- in "failed to "poor" condition is 25.9%, in "fair" to "good" condition is 55.6% and in "very good" to "excellent" condition is 18.5%. The average PCI for the network is 50.

1 **TESTIMONY BEFORE THE HOUSE TRANSPORTATION COMMITTEE**

2 **House Bill No. 2737**

3
4 Good afternoon Ladies and Gentlemen. My name is Ken Black, and I am the President of
5 the Kansas Association of Airports. I am here this afternoon to provide testimony regarding
6 House Bill No. 2737. I would like to open my testimony by commending the members of this
7 committee who have introduced this piece of legislation. It represents a critical first step towards
8 the future funding of an Airport Improvement Program for the State of Kansas. At a previous
9 hearing, this committee heard testimony from airport users and airport operators about the
10 condition of Kansas Airports. I did not come here today to restate the problem, but I would like
11 to revisit a couple of vital statistics regarding Kansas airports today.

12 (Refer to Enclosure 1) The Kansas Department of Transportation has surveyed 48 Kansas
13 airports. The great majority of these airports were small General Aviation airports. Over half of
14 the airports surveyed had pavement conditions rated as fair or worse. To be more specific, over
15 29% of these airports had pavement conditions which were rated poor or worse. The survey
16 population represents 1/3 of the public use airports in the State of Kansas. Because this is a large
17 population sample, it is logical to assume that this same ratio of pavement conditions extends to
18 all airports in the State. So today, I am suggesting to this committee that over 73 public use
19 airports, which represents 50% of the total public use airport population in the State of Kansas,
20 currently have pavement conditions which are rated at fair or worse. There is high probability
21 that 42 or more Kansas airports have pavement conditions which are poor or worse.

22 I am focusing on these statistics for one reason. This committee needs to view the total
23 picture before funding an Airport Improvement Program. The vast majority of these 42 critical
24 airports use asphalt pavement on their runways and taxiways. In round numbers, these 42
25 airports possess the equivalent of 10 million square feet of asphalt pavement. The current cost
26 estimate for asphalt rehabilitation is approximately \$1.50 per square foot. So, the funding
27 required to repair pavement at the 42 most critical airports in the State of Kansas approaches \$15
28 million, (see Enclosure 1).

29 When I discussed the objectives of House Bill No. 2737 with my colleagues, a cursory
30 estimate of the revenue that this bill would generate was somewhere on the order of \$750,000 per
31 year. The majority of the KAA membership supports the concept of applying taxes on aviation
32 fuels towards airport improvements. However, the requirements for funding, which is on the
33 order of \$15 million, in comparison to the funds that may be generated by the collection of the
34 excise tax as recommended in House Bill No. 2737 yields a significant short fall between the
35 funding generated and the funding required for pavement rehabilitation and repair.

36 This committee should also bear in mind that other airport improvements besides
37 pavement needs are an issue with Kansas airports. Reliable airfield lighting, weather
38 instrumentation, and navigation systems are just some of the other areas that require
39 improvements. So, the costs for airport improvements in the State of Kansas is really an
40 unknown quantity.

41 The Kansas Association of Airports supports House Bill No. 2737 in principle. However,
42 KAA believes that it does not go far enough towards funding the needs of Kansas Airports in the
43 State of Kansas. KAA would prefer to see funding to support airport improvements initially at
44 the level of \$5 million annually. KAA recommends that this committee study all possible funding
45 sources for the Kansas Airport Improvement Program. If this means that the Legislature needs to
46 wait for the next Comprehensive Transportation Program to be developed, then so be it. An
47 Airport Improvement Program with appropriate funding is needed for Kansas, and KAA will
48 work with the other transportation components in the State to accomplish that end.

49 House Bill No. 2737 is an excellent first step towards solving the needs of Kansas
50 Airports. However, it simply does not go far enough. It will not meet the funding needs for the
51 Kansas Airport Improvement Program in the long term. It simply does not generate enough
52 revenue.

53 In conclusion, the Kansas Association of Airports supports legislation that creates a team
54 approach to Airport Improvements throughout our state. This approach:

- 55 • Places the burden for administration of an Airport Improvements Program on the Kansas
56 Department of Transportation.
- 57 • Requires airport sponsors to raise sufficient revenues to match State funds for their airport
58 improvements.
- 59 • Must be one that airport operators and users can live with in the long term – an Airport
60 Improvement Program that is adequately funded to meet the existing and future needs of
61 Kansas Airports.

62 Thank-you for allowing me to speak today, and I would be glad to answer your questions at this
63 time.

64

65 Enclosures

66 1. KAA Statistical Summary

KAA STATISTICAL SUMMARY

Kansas Airports -- Pavement Rehabilitation

1. Total Number of Public Use Airports in Kansas: 146

2. Public Use Airports Surveyed by KDOT to-date: 33%
 - a) Airports Surveyed with Fair or Worse Pavement Conditions: 54%
 - b) Airports Surveyed with Poor or Failed Pavement Conditions: 29%x

3. Total Population
 - a) Airports Surveyed with Fair or Worse Pavement Conditions: 73
 - b) Airports Surveyed with Poor or Failed Pavement Conditions: 42x

4. Pavement Quantities
 - a) 0.23 million square feet per airport
 - i) Primarily asphalt
 - ii) Equivalent to one runway and an associated taxiway or apron
 - b) Total pavement for 42 airports: 9.66 million square feetx

5. Pavement Rehabilitation Cost Estimate
 - a) Current price is \$1.50 per square foot
 - b) Total cost would be \$14.49 million



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STATEMENT OF
KANSAS AGRICULTURAL AVIATION ASSOCIATION
TO THE HOUSE TRANSPORTATION COMMITTEE
REP. GARY HAYZLETT, CHAIR
RE: H.B. 2747, FEBRUARY 10, 1998

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Agricultural Aviation Association (KAAA). KAAA supports H.B. 2737, and we thank the Committee for your introduction and consideration of this legislation. KAAA is the professional trade association for the aerial application industry in Kansas. There are approximately 128 licensed aerial pesticide businesses in Kansas. About 95% are members of our Association, and about half operate from municipal airports.

Our members see the need for assistance for local airports to make improvements. An allied industry member of our board of directors is Randy Hardy, of Hardy Aviation Insurance in Wichita. Mr. Hardy is the national chairman of the insurance committee of the National Agricultural Aviation Association and is also vice-chair of the Aviation Advisory Committee of the KS Department of Transportation. He would like to have presented our testimony today, but is out of state, speaking at the Florida Agricultural Aviation Association meeting. As an insurance professional, he is concerned about the safety of municipal airport facilities and has shared with us his strong opinion that improvements are needed at Kansas airports. Mr. Hardy has said that Kansas is the only state which currently does not have some type of funding available for improvement assistance for airports.

It is difficult for airport authorities to make improvements. Federal funds are very difficult for small airports to obtain, because of strong competition from larger airports and stringent requirements for federal funds (such as a minimum number of airplanes which most municipal airports in Kansas can't meet). Local funds are also difficult to obtain, with relatively small amounts of revenue to small airport authorities and many competing city needs. A "shot in the arm" from the state funds would be very helpful, and in most cases, significant safety improvements could be made with relatively few dollars.

In a number of cases, aerial applicators are the only businesses operating on their airports. They provide an additional job or two in the community and revenue to the airport authority through the fees they pay, and they also provide services to the airport authority. In many

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cases, they serve as the FBO in charge of the airport and radio, mow the runways, maintain the grounds and buildings, answer the phone, provide gas for other aircraft coming in and out, and provide local transportation for visitors to the airport, often allowing them to use their own vehicles.

While an aerial applicator may be the only business operating from the airport, these local airports serve very important functions for their communities. Often, doctors use air travel in order to be able to provide much needed medical services to rural areas. State officials use these facilities to travel to more remote areas. At Ellsworth, for instance, the aerial applicator is the only business on the airport, but it is used frequently in conjunction with the prison. Some of our members also have "people" airplanes as well as spray planes and provide air taxi services and emergency and medical air transportation.

In the next few years, we anticipate pesticide containment regulations, and aerial applicators will have to decide whether they can or will remain on municipal airports or move to private property. We expect that where they do remain on airports, their regulatory compliance will further contribute to the enhancement and improvement of airport facilities through the construction of loading pads, secondary containment areas, and in many cases new buildings and hangars.

Some of the much needed kinds of safety improvements which could be made with a source of state funding include repair of deteriorating ramps; construction or enlargement of ramps; sealing, widening and/or lengthening of runways; and asphalt paving of runways and tie-down areas. Therefore, we have concluded that a relatively small source of state funds could go quite a ways in helping to improve these smaller airports.

We strongly support HB 2737, and would suggest the Committee consider maintaining the current aviation fuels tax at the state sales tax level. This would make the bill revenue-neutral, avoid the creation of a separate tax, and insure that a similar amount of funds would be raised as what is currently being raised.

Thank you for your consideration.



KANSAS DEPARTMENT OF TRANSPORTATION

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Secretary of Transportation

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Bill Graves
Governor of Kansas

**Testimony of E. Dean Carlson, Secretary of Transportation
Before the House Committee on Transportation
Regarding House Bill 2737
February 10, 1998**

Mr. Chairman, members of the Committee, thank you for the opportunity to testify today on House Bill 2737.

First let me say that we appreciate this committee's interest in our state's airports. As we have testified before, it is our firm belief that airports are a critical part of our transportation system that must be preserved and enhanced.

As you know, in recent months, the Governor and I have begun a public discussion of the need for a comprehensive transportation program to provide funds for the improvement of roads, transit, railroads and airports--all essential elements of the state's transportation infrastructure. In these discussions the need for improvements to general aviation airports is frequently mentioned, along with the necessity of addressing those needs as part of a comprehensive approach to future transportation improvements.

Consequently, my view is that the goal of HB2737--to provide revenue for airport improvements in Kansas--should become a part of the debate on the broader issue of a comprehensive transportation initiative. I simply believe that we must assess our transportation needs as a whole, not piecemeal. In this way, we can make the best decisions possible about prioritizing our needs, determine the best sources of revenue to meet those needs, and address all of these issues in the most efficient and equitable way. For that reason, I would encourage you to defer action on this proposal at this time and consider state assistance for airports when the time comes to discuss a comprehensive transportation program.

With this in mind let me turn to a few specifics regarding HB2737.

This proposal would amend statutes relating to the imposition of motor fuel taxes to levy a \$.06 per gallon tax on aviation fuel. By imposing such a tax, such fuel sales would become exempt from the currently levied sales tax. The bill also appears to make sales of fuel to air carriers engaged in interstate commerce exempt from the proposed tax. The bill directs that revenue from the tax be deposited in the public use general aviation airport development fund and be available to provide grants for public use general aviation airports under K.S.A. 75-5061 and

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KDOT Testimony on HB 2737, Page 1

Attachment 5

“...establish and administer a grant program for public use general aviation airports for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of such public use general aviation airports.” As you know, no funds have ever been appropriated into that fund.

Obviously, the amount of revenue this proposal would generate would depend on the amount of fuel sold. Using data from various sources, we have made some rough calculations to determine the possible amount of revenue that might be generated. The Energy Information Administration (EIA) reports that in 1996, approximately 14,000 gallons per day of *aviation gasoline* were sold in Kansas. Assuming that 100 percent of that was not used by common carriers, a tax of \$.06 per gallon would generate \$306,000 per year.

In addition the tax would generate revenue from the sales of jet fuel not used by common carriers. EIA does not break down its figures in this way, so expected revenue from this source is more difficult to estimate. However, using somewhat dated FAA figures on fuel consumed by aircraft type, we can estimate that approximately 6,286,000 gallons of jet fuel per year are used in turboprop and turbojet general aviation aircraft, and approximately 592,000 gallons per year of jet fuel is used by helicopters in Kansas. Assuming that all of this fuel was not used by common carriers, then an additional \$412,680 would be collected on jet fuel. Using these assumptions, the tax would generate approximately \$718,000 at the end of twelve months after its effective date.

With most airport improvement projects costing several hundred thousand dollars, even these optimistic estimates of HB 2737's revenue generating potential indicate that it would provide a limited amount of revenue in relationship to both the need and the number of airports that could be assisted. As we have found in addressing other transportation needs, I believe it is likely that an adequate program for airports will require revenue from several sources.

There are also a couple of legal questions I would like to draw to your attention. Section 10 of Article 11 of the Kansas Constitution provides: “The state shall have power to levy special taxes, for road and highway purposes, on motor vehicles and on motor fuels.”

This provision makes no mention of the state's power to levy a tax on aviation fuel for the purpose of improving airports, which is what HB 2737 purports to do. Put another way, HB 2737 levies a tax on motor fuels that is not “for road and highway purposes.” I am not a lawyer, but it seems this might provide a constitutional issue that would need to be examined. Also, I would note that the bill does not amend the provisions of K.S.A. 79-3453 which provide for refunds of taxes paid on motor-vehicle fuels or special fuels not used on highways. It may be that HB 2737 remedies this problem in another provision, but I wanted to bring the apparent inconsistency to your attention.

Mr. Chairman, this concludes my testimony. As I said at the outset, we appreciate this committee's recognition that airports are an integral part of our transportation system. But we also believe that an adequately funded, comprehensive transportation program--that is prioritized on a condition/need basis--is the best approach to addressing our efforts to preserve and enhance our precious transportation assets. I'd be happy to respond to your questions.



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

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Memorandum

To: House Committee on Transportation

From: Amelia McIntyre, Legal Counsel

Re: House Bill 2306, Amendments to Boating Under the Influence Statutes

Date: February 10, 1998

The Kansas Department of Wildlife and Parks urges that the House Committee on Transportation to recommend H.B. 2306 favorably for passage. The provisions of H.B. 2306 were also contained in S.B. 174 favorably considered by your committee during the 1997 Session; S.B. 174 was stricken from General Orders of the House during the first week of the 1998 Session.

There are four key components of H.B. 2306, each of which merit the Committee's consideration. Those components are:

1. Prohibiting persons less than 21 years of age from operating a vessel with an alcohol concentration of .02 or greater. We are urging "zero tolerance" for underage boaters, consistent with the statutory expectation already in place for underage drivers.
2. Setting a minimum fine on a second or subsequent conviction of \$100.00 (an amendment to K.S.A. 32-1131(e)(2)). A first conviction already has the same minimum fine.
3. Reconcile the level of alcohol concentration that is prima facie evidence that a boater is under the influence of alcohol in K.S.A. 32-1134 (existing statute references .10) with the statutory threshold for unlawful operation of .08 already specified in K.S.A. 32-1131(a)(1). K.S.A. 32-1131(a)(1) was amended by Section 10 of Chapter 259 of the 1993 Session Laws to change the unlawful alcohol concentration in a person's blood or breath from .10 to .08 or more, while operating, or attempting to operate a vessel. Most probably it was an oversight that the presumption level in K.S.A. 32-1134 was not changed at the same time. For the purposes of driving under the influence, unlawful alcohol concentration level is the same as the level necessary to establish prima facie evidence that a driver is under the influence.

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4. Permit preliminary screening test of a person's breath to determine alcohol concentration of breath, on the existence of a belief of a law enforcement officer that reasonable grounds exist that: a person has alcohol in their body, a boating law violation has been committed, or a person has been involved in a vessel accident or collision. H.B. 2306 specifies that refusal to take and complete the test is a class C misdemeanor.

In a minimum of 43% of the 1997 boating fatalities and 50% of the 1996 boating fatalities reported to this Department alcohol was involved. These percentages may be understated; there are some accidents in which a determination of whether alcohol has been involved is not made for a variety of reasons (e.g. delay or failure in reporting to the Department, sometimes compounded by the unavailability of the injured or fatality for testing purposes). For the four-year period between 1994 to 1997, 15% of all accidents reported to the Department involved alcohol. Nationally, 50% of all boating accidents are estimated to be alcohol related.

The Department's goal remains to help provide a safer boating outing, lessen conflicts between boater groups (e.g. personal watercraft operators versus stationary fishermen), and to ensure quality recreation, and we believe these amendments will further that goal. Guidance has been, and will continue to be given, to conservation officers and park rangers, to initiate a stop for suspected BUI, based upon a reasonable suspicion, including observation by officers of some of these examples of conduct:

- * reckless boat operation
- * riding irresponsibly
- * flagrant drinking
- * speeding through "no wake" zones
- * loud, obnoxious passengers
- * reports from witnesses of dangerous or offensive behavior
- * erratic motion of the boat through the water
- * operating a boat without proper lighting

If conduct demonstrates evidence of impairment, then a PBT can be given on the water, without requiring the return of the officer, boats and boat operator to the shore. If a boat operator is not impaired by alcohol, then a PBT test enables a prompter determination in favor of the boater.

cc: Secretary Steve Williams

TESTIMONY
HOUSE COMMITTEE ON TRANSPORTATION
FEBRUARY 10, 1998
HOUSE BILL 2306

Representative Gary Hayzett
Chairman, House Committee on Transportation
State House, Topeka, Kansas

Mr. Chairman and members of the committee:

The Kansas Community Alcohol Safety Action Project Coordinators Association supports the passage of House Bill 2306. Although our primary purpose is to provide alcohol and drug evaluations and recommendations to all of the courts in Kansas for DUI offenders and other violations for those under the legal age of alcohol consumption. We feel that House Bill 2306 is another positive step in reducing alcohol and drug misuse and abuse in our State.

Those persons who consume alcoholic beverages and operate a boat on our lakes most likely will drink alcoholic beverages in route to the lakes or departing from the lakes or both. These persons not only endanger themselves but also other innocent persons who share the lakes and roadways with them.

In addition, any person under the age of 21 is not allowed to consume alcoholic beverages unless under the supervision of a parent or guardian. To be consuming alcohol under the legal age and operating a boat on our lakes can have disastrous results including death and serious injuries.

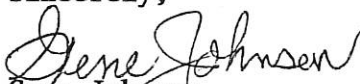
We also support the concept of increasing the penalty to a Class C misdemeanor for all of those individuals who refuse the officer's request to take a preliminary breath test at the scene for the following reasons:

- (1) If the person passes the test, he or she can continue boating for their pleasure.
- (2) If the person fails to take the test, in most cases the officer will probably place them in custody and take them to the nearest testing station for further testing and most likely place them under arrest for a violation of the law.
- (3) Should the person fail the test, the officer then will remove that person from the lake in the interest of public safety.
- (4) If a person passes the preliminary breath test, the officer is free to go about his regular duties of providing services to all lake participants.

Our organization encourages this committee to act positive on this proposed legislation for passage this legislative session.

Thank you, I will attempt to answer any questions.

Sincerely,


Gene Johnson

Kansas Community Alcohol Safety Action Project Coordinators Association

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