Approved: February 12, 2002
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:35 a.m. on February 7, 2002, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Duane Goossen, Director of the Budget
E. Dean Carlson, Secretary, Department of Transportation
Patrick Hurley, Economic Lifelines
Tom Palace, Petroleum Marketers and Convenience Store Association
Tom Whitaker, Kansas Motor Carriers Association
Justin Holstin, Propane Marketers Association of Kansas
Ken Suter, SACO Petroleum Corporation
Gary Davis, Leavenworth Amoco Service
Tony Tanking, Ag Partners Coop, Inc., Hiawatha
Karl Peterjohn, Kansas Taxpayers Network
Marlee Carpenter, Kansas Chamber of Commerce & Industry
Mark A. Burghart, Kansas Corporate Coalition
Richard Cram, Kansas Department of Revenue

Others attending: See attached list.

The minutes of the February 5, 2002, meeting were approved.

SB 452–Financing for comprehensive transportation program; vehicle registration fees; taxation of motor vehicle fuels

Duane A. Goossen, Director of the Budget, noted that **SB 452** raises the tax on motor fuel by one cent and raises registration fees on all vehicles by three percent. In addition, he noted that the bill is part of the Governor's budget recommendation and that it was proposed as an alternate way to provide funding for the Comprehensive Transportation Program. He called attention to a chart showing the history of the sales tax/State General Fund demand transfer during the first three years of the Comprehensive Transportation Program, noting that, by statute, $89 million was to be transferred in FY 2000; however, only $62 million was transferred. The statutory amount required for the second year was $90 million; however, only $51 million was transferred. For the current fiscal year, $120 million should be transferred; however, it is estimated that only $95 million will be transferred. For FY 2003, $147 million should be transferred; however, the Governor recommends no transfer from the State General Fund to the Highway Fund. Mr. Goossen emphasized that the loss must be made up from some other source or a cut in highway projects will be necessary. He pointed out that, over the remaining seven years of the Comprehensive Transportation Program, the bill is expected to raise $157 million. While the bill would avoid the necessity of immediate project cuts, further reductions in revenue will require a corresponding elimination of projects. (Attachment 1)

E. Dean Carlson, Secretary, Kansas Department of Transportation, informed the Committee that an increase in the motor fuel tax as provided in **SB 452** would provide approximately $18 million per year for the state highway fund, and the registration fee increase would provide approximately $4 million per year. The increased amounts would amount to $154 million over the remaining life of the Comprehensive

Transportation Program. He explained that bill provides for a 75 cent increase in the registration fee for an automobile and approximately $58 for the largest commercial vehicle. He noted that currently the Department is approximately $300 million "in the hole" on the program. Mr. Carlson emphasized that, although the passage of **SB 452** would solve the Department's problem for one year, he is concerned that next year both the new Governor and the Legislature will once again decide to suspend the sales tax transfer. If the demand transfer is not restored over the life of the program, the loss to the program will amount to approximately $1.5 billion. Without the Governor's suggested tax increases, the Department's work will be reduced to maintenance, research projects, and priority bridges for the remainder of the program. He noted that, without the prospect of additional demand transfers, the Department will be forced to cut projects immediately after the 2002 Legislative Session. (Attachment 2)

Patrick Hurley, representing Economic Lifelines, testified in support of **SB 452**. At the outset, he called attention to a copy of a resolution adopted by Economic Lifelines in December 1999 which strongly opposes reductions in funding for the 1999 Comprehensive Transportation Program. He expressed his concern that funding for the project has already lost $91 million the first three years from cuts made by the Legislature. He also expressed his objection to the elimination of the demand transfer in 2003, noting that the demand transfer is one of the key funding components of the program. He expressed his fear that elimination of the demand transfer for one time will become a loss for all times. Mr. Hurley called attention to charts of projected expenditures compiled by the Department of Transportation, pointing out that the statistics indicate that the motor fuel taxes would have to be increased 8 cents immediately and registration fees would have to be raised 30 percent in order to replace the demand transfer over the remainder of the program. In his opinion, Kansas is close to returning to conditions in the early 1980s wherein the Department had funding only for maintenance and a few bridges. In conclusion, he noted that Economic Lifelines recognizes the financial conditions facing the state and intends to return to work with legislative committees and provide support for other suggested revenue alternatives which will allow the funding for the Comprehensive Transportation Program to continue. (Attachment 3)

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas (PMCA), testified in opposition to **SB 452.** He discussed the tough economic decisions petroleum marketers and convenience stores are facing due to the explosion of the "big box" petroleum retailers who are selling fuel below cost, the effects of 9/11, spiraling health insurance costs, and competition with cross border marketers. He noted that, in reality, the price of gasoline is based on daily competition. Kansas marketers either have to lower their prices to meet the competition or stand firm on their price and watch customers drive a block or two to trade at their competitors. He emphasized that PMCA supports safe, efficient highways because, without them, there is no consumer demand for their product. However, PMCA opposes the bill because the one cent motor fuel tax increase will be added to another one cent increase that will become effective on July 1, 2003. He noted that petroleum marketers and convenience store retailers are in the same economic plight as the state; however, they cannot raise their prices to fill budget deficits because the market place and their competition will not allow that. (Attachment 4)

Tom Whitaker, Kansas Motor Carriers Association, testified in opposition to **SB 452**, noting that his opposition has nothing to do with support for the 1999 Comprehensive Transportation Program. He pointed out that truckers in Kansas currently pay substantial state and federal taxes. He said that the struggling trucking industry simply cannot afford an increase in taxes and registration fees at this time. He called attention to a chart attached to his written testimony which shows that Kansas ranks third in the nation in the amount of total state truck taxes. In addition, he called attention to a graph which illustrates that trucking business failures are at an all time high. (Attachment 5)

Justin Holstin, Propane Marketers Association of Kansas, testified in opposition to the provision in **SB 452** which increases taxes on motor fuels. In his opinion, increasing taxes by one cent on motor fuels, including propane, is an inappropriate step to take in addressing the gravity of Kansas' current financial situation. He noted that, although the bill would not affect the use of propane as a agriculture fuel, it would affect farmers and ranchers who have over-the-road vehicles fueled by propane and who are already struggling to make ends meet. Furthermore, a tax increase would create an economic disadvantage for propane marketers. (Attachment 6)

Ken Suter testified in opposition to **SB 452** as the owner of SACO Petroleum Corporation, which is a distributor of gasoline and diesel products and which also sells convenience store products such as beer and cigarettes. He explained that he lives in Kansas and has stations located in the Kansas City area on both the Kansas and Missouri sides. He emphasized that, when there has been an increase in Kansas' tax on fuel, the volume of his Missouri businesses has increased. He estimates that approximately 25 percent of current sales in Missouri are to Kansas residents. He noted that 70 percent of the Kansas population lives within 30 miles of the eastern border; therefore, more consideration should be given to Kansas being more competitive with Missouri. (Attachment 7)

Gary Davis, Leavenworth Amoco Service, testified in opposition to **SB 452**. He explained that, after purchasing the Amoco station in 1988, he added a convenience store and a car wash. In the first five years, he doubled the volume of gas sold at the location. After a self-service station with a huge state tax difference was opened over the borderline in Missouri just one half mile from his station, his volume dropped by about 400,000 gallons per year in the following four years. He observed that more than half of the vehicles fueling at the Missouri site were from Kansas. He noted that his loss in revenue was shared by several other operators on the Kansas side, and any additional Kansas fuel tax increases will worsen this trend. (Attachment 8)

Tony Tanking, Ag Partners Coop, Inc., of Hiawatha, testified in opposition to **SB 452**. He pointed out that the petroleum industry is one of great volatility which also must deal with the issue of business competition with mass merchandising store chains. In addition, the industry must compete with Native American owned fueling facilities in northeast Kansas wherein every gallon of fuel sold is exempt from Kansas' fuel tax. He noted that the difference in pricing over the past two years has ranged from 15 to 20 cents per gallon below other competitor fuel sites in neighboring communities. The difference in pricing has attracted consumers from 20 to 30 miles away, luring revenue dollars away from local communities as well as from the state. Mr. Tanking said he was told by a representative who once supplied one of the reservations with fuel that the facility was selling approximately 8,500 gallons of unleaded gasoline per day. At the current rate of 21 cents per gallon for 365 days per year, this translates to $651,515.00 in lost revenue for the state. In this regard, he noted that recently the fuel tax exemption for Indian reservations was repealed, requiring that any fuel purchased from a distributor in Kansas or imported into the state be subject to the Kansas' fuel tax. Upon this ruling, several tribes have severed their ties to local distributors and aligned themselves with a Native American tribe in Nebraska which delivers fuel with its own fuel transport. Mr. Tanking said that, in speaking anonymously with individuals on reservation fueling facilities, he was informed that reservations would be able to avoid Kansas' fuel tax because of the acquisition of fuel from a sovereign nation supplier.

Mr. Tanking went on to say that the retail fuel industry encountered one of the toughest years ever in 2001 as margins were squeezed by competition for America's fuel dollar. Over the past five years, profit margins on a national basis for fuel sales at the retail level have been on a continual decline. In conclusion, Mr. Tanking said the proposed fuel tax increase would further widen the gap of competition for retailers not exempt from paying the fuel tax and would provide additional incentive for residents in northeast Kansas to purchase their fuel at reservations. He noted that the primary victims of a fuel tax increase would be the state and Kansas citizens who will have to deal with poorer road quality due to lack of funding. (Attachment 9)

Karl Peterjohn, Kansas Taxpayers Network, gave final testimony in opposition to **SB 452**, describing it as the "Western Missouri Retail Development Act of 2002." He urged the Committee not to recommend any bill which would weaken the private sector in Kansas by placing Kansas firms at a competitive disadvantage with competitors located a short distance away across the border. In addition, he contended that the proposed tax increases will not meet expectations. In his opinion, rasing taxes when Kansas is in a recession will make a bad economic situation worse. Instead, he recommended that Kansas state government reduce its spending appetite. (Attachment 10)

There being no others wishing to testify, the hearing on **SB 452** was closed.

SB 408–Income taxation; definition of business income for purposes of the uniform division of income for tax purposes act

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:35 a.m. on February 7, 2002, in Room 519-S of the Capitol.

Marlee Carpenter, Kansas Chamber of Commerce and Industry, testified in support of **SB 408**. She explained that legislation was passed in 1996 which clarified that Kansas uses the transactional test to determine what business income should be taxed, not the functional test. Since passage of the legislation, confusion has once again surfaced about the determination of taxable business income. The bill would eliminate the confusion and reaffirm that the transactional test is applied in Kansas. She noted that the bill has no fiscal impact. (Attachment 11)

Mark Burghart, Kansas Corporate Coalition, testified in support of **SB 408**. He noted that the 1996 legislation was a compromise between the Department of Revenue and the business community and was part of an effort to alleviate some negative perceptions of the tax climate in Kansas. He explained that the legislation effectively gave corporate taxpayers an option in terms of how to report income for Kansas corporate income tax purposes. He noted that Kansas has historically utilized the transactions test to determine business income, and **SB 408** confirms that Kansas has, in fact, retained the transaction test. (Attachment 12)

Richard Cram, Kansas Department of Revenue, noted that **SB 408** makes no substantive change to the definition of "business income" in K.S.A. 79-3271(a); however, it deletes language that may have caused confusion as to whether Kansas adopted the functional test. The Department believes that the deletion should help clarify that the 1996 amendment to the definition of business income was not an adoption of the functional test. He noted that the Kansas Supreme Court has held in two cases that Kansas is a transactional test state. (Attachment 13) With this, the hearing on **SB 408** was closed.

Senator Lee moved to report **SB 408** as favorable for passage and that it be placed on the Consent Calendar, seconded by Senator Clark. The motion carried.

The meeting was adjourned at 11:45 a.m.

The next meeting is scheduled for February 11, 2002.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: February 7, 2002

NAME	REPRESENTING
Tony Tanking	Ag Partners Cooperative - Hiawatha
Ken Suter	SACO Petroleum Corp. NKC MA & KCAS
Gary Davis	Leavenworth Amoco LV KS.
Steve McBride	Carter Petroleum
Dave Lybarger	Lybarger Oil, Inc.
Jerry Meiners	Meiners Global Energy/Oil
Mary "	" " " "
John "	" " " "
Mary Braddock	" " " "
Hillary Hayes	Federico Consulting
Elaine Mueller	Cardie Oil, Inc.
Reed W Davis	KDOT
Robert Haley	KDOT
Dean Carlson	KDOT
Nancy Bogina	KDOT
Kurt Taylor	Taylor Oil - PMCA
Curt Wright	Taylor Oil Wellsville, KS
Bob Totten	Ks Contractors Assoc.
Bryan Beaver	Carter Petroleum - PMCA

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: Feb. 7, 2002

NAME	REPRESENTING
Phil Near	Crescent Oil Co Inc.
Jerry Dawson	Crescent Oil Co Inc,
Brenda Elsworth	Peters Corporation
Scotty Peters	Peters Corporation
Carl Parker	South Haven LP Gas Inc.
Christi Stewart	KS Motor Carriers Assoc.
Deann Williams	KS MOTOR CARRIERS ASSOC,
GARY DAVENPORT	KS MOTOR CARRIERS ASSN
Marjorie Walthers	Walthers Oil Co
Scott ZAREMBA	ZAROCO Inc
Kevin Brown	THE Oil Co.
Mike Velts	Velts Oil Co Inc
Dennis McCanany	McCanany Oil Co., Inc.
Gary Fast	Pic Quik Inc. HUTCHINSON
Gary Davies	Davies Oil Co Inc
Jim O'Malley	Kansas Press Assn
Clay Dark	Dark Oil Co. Inc
Jim Shepherd	S+S Oil + Propane Co.
George Zeigler	Zeigler Oil Co

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: FEB 7, 2007

NAME	REPRESENTING
Tim Roark	Kwik Shop, Inc
Stephen A. Haley	Kwik Shop, Inc.
Jim Selenke	Parker Oil Co. Inc.
Wayne Reed	Bennington Oil Co Inc
Bill Brady	Economic Lifelines
Erik Sartorius	City of Overland Park
Karl Peterjohn	KS Taxpayers Network
Tracy Nitsch	Farmway Coop Inc. Beloit
Dean Watchers	Watchers Oil Co. Cuba
Terry Presta	Presto Convenience Stores
[illegible]	MATC
[illegible]	MATC
E. [illegible]	Marion [illegible] Oil Inc
Marvin "Bill" Wenger	Wenger Oil Inc. Newton
Helen Pedigo	Governor's Office
Tom Whitaker	KS Motor Carriers Assn
Ken Leicht	KS Motor Carriers Assn / Frito-Lay
[illegible] Jensen	Jensen Oil Manhattan
Anne Spiess	KCRAR - K.C. Realtors

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: Feb 7, 2002

NAME	REPRESENTING
Ben Goossen	visitor
Brian Hallauer	Hallauer Oil Co.
Mark A. Burghart	Ks. Corp. Coalition
Marlee Carpenter	KCCI
Larry R Baer	LKM
Tom Bruno	GBBA

STATE OF KANSAS

DIVISION OF THE BUDGET
State Capitol Building, Room 152-E
Topeka, Kansas 66612-1575
(785) 296-2436
FAX (785) 296-0231
http://da.state.ks.us/budget

Bill Graves
Governor

Duane A. Goossen
Director

MEMORANDUM

TO: Senate Committee on Assessment and Taxation

FROM: Duane A. Goossen, Director of the Budget

DATE: February 7, 2002

SUBJECT: SB 452

Mr. Chairman, Members of the Committee,

SB 452 raises the tax on motor fuel by 1 cent, and raises registration fees on all vehicles by 3 percent. The bill is part of the Governor's budget recommendation and is proposed as an alternate way to provide funding for the Comprehensive Transportation Program.

In the 10-year Comprehensive Transportation Program, one source of funding is an ever-increasing demand transfer from the State General Fund to the Highway Fund. The amount of the transfer is calculated as a percentage of sales tax receipts. In FY 2002, the transfer is set at 9.5 percent of sales tax receipts, growing to 11.0 percent in FY 2003, 11.25 percent in FY 2004, and 12.0 percent for the remainder of the program.

Attached is a chart showing the history of the transfer.

For FY 2003, the Governor recommends no transfer from the State General Fund to the Highway Fund. This reduction is one of the many reductions required to balance the budget within existing resources. The loss of the transfer has significant implications for the highway program. The loss must either be made up from some other source or a corresponding cut must be made to highway projects. (A list of project cuts is attached.)

Senate Assessment + Taxation
2-7-02
Attachment 1

The FY 2003 demand transfer loss to the highway fund is $147 million. This bill would raise an additional $18 million from motor fuels in FY 2003 and an additional $4 million from registrations. Over the remaining 7 years of the Comprehensive Transportation Program this bill is expected to raise $157 million, offsetting the FY 2003 loss.

However, while this bill would avoid the necessity of immediate project cuts, there are still longer term issues to consider. If the demand transfer is eliminated for FY 2003, it will be very difficult to reinstate the transfer in FY 2004, again causing consideration of project cuts. (The current formula would require a $158 million transfer in FY 2004.) Note that over the first 3 years of the program, the actual amounts transferred are $92 million below the plan. Further reductions in any of the revenue sources will require a corresponding elimination of projects.

History of the Sales Tax/SGF Demand Transfer During the CTP

	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	Total
Original SGF Transfer (May 1999)	89,350	90,824	147,557	177,690	188,998	209,661	218,048	226,769	235,840	245,274	1,830,011
Adjusted for Current Revenue Estimates	89,350	90,824	140,125	166,650	178,473	196,525	203,540	210,232	217,806	225,974	1,719,499
Adjusted for New Bond Authority	89,350	90,824	120,125	146,650	158,473	176,525	183,540	190,232	197,806	205,974	1,559,499
Actual Transfer/Governor's Rec.	62,240	51,709	94,559	--	?	?	?	?	?	?	?
Difference from Adjusted for New Bond Authority to Actual	**(27,110)**	**(39,115)**	**(25,566)**	**(146,650)**	**?**	**?**	**?**	**?**	**?**	**?**	**?**

1-3

FISCAL YEAR (FY) 2003 PROJECT CUTS TO OFFSET COMPREHENSIVE TRANSPORTATION PROGRAM (CTP) FUNDING REDUCTIONS OF $147 MILLION*

System Enhancement (SE) Projects *Cost Savings = KDOT portion of total project cost*

- US-169 northeast of Coffeyville in Montgomery County
  One portion of this project was the last rural corridor selected and the other portion was the fourth to last (followed only by the US-400 study, US-54 Pratt to Kingman, and the other US-169 portion).

- 87th Street/I-35/US-69 Interchange (Lenexa/Overland Park) in Johnson County
  This project was the last urban interchange project selected.

- US-54/Kellogg & Rock Road (Wichita) in Sedgwick County
  A portion of the state funds from this project will be reallocated to the US-54/Kellogg & Woodlawn Road SE interchange project that is being designed and let to contract by the city of Wichita and is currently over-budget.

- There will be no construction dollars available to add new projects (or major project revisions) that may be necessary to address safety or engineering factors that cannot be adequately addressed through temporary fixes or other maintenance work. The South Lawrence Trafficway in Douglas County is an example of such a project.

$78 million SE Approximate Cost Savings

Major Modification (MM) Projects *Cost Savings = KDOT Construction, Right-of-Way, and Utility costs*

In general, these MM projects were the last projects (lowest relative priority) to be added to the CTP.

- US-36 in Jewell County from K-128 east to 4.7 miles east of K-14
- US-77 in Marion County from US-50 north to US-56/K-150
- US-160 in Seward and Meade Counties from US-83 east to US-54
- US-183 in Ellis County from 55th St. (Hays) north to the county line
- I-35 in Coffey County from the county line east to US-75
- US-36 in Doniphan County from Wathena to the Missouri River Bridge

-----

$79 million MM Approximate Cost Savings

$157 million SE & MM Approximate Cost Savings

* These cuts represent a one-time savings of state general funds by eliminating the KDOT sales tax demand transfer. If the demand transfer is not restored to its statutory level in FY 2004, additional transportation projects will be eliminated or more revenue dedicated to transportation will be necessary.

STATE OF KANSAS

KANSAS DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY OF TRANSPORTATION
Docking State Office Building
915 SW Harrison Street, Rm.730
Topeka, Kansas 66612-1568
Ph. (785) 296-3461 FAX (785) 296-1095
TTY (785) 296-3585

E. Dean Carlson
Secretary of Transportation

Bill Graves
Governor

TESTIMONY BEFORE SENATE ASSESSMENT AND TAXATION COMMITTEE

REGARDING SENATE BILL 452 PROVIDING FOR THE FINANCING OF THE COMPREHENSIVE TRANSPORTATION PROGRAM

February 7, 2002

Mr. Chairman and Members of the Committee:

I am E. Dean Carlson, Secretary of the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on Senate Bill 452.

Senate Bill 452 provides for a one-cent increase in the motor fuel taxes effective June 1, 2002 with the entire one cent deposited in the State Highway Fund and a three-percent increase in registration fees for all classes of vehicles effective July 1, 2002. The increase in motor fuel taxes will provide approximately $18 million per year to the State Highway Fund and the increase in registration fees is anticipated to provide approximately $4 million per year to the State Highway Fund. These tax increases have been proposed by the Governor to replace the loss to the Comprehensive Transportation Program from reducing the sales tax demand transfer to the State Highway Fund for FY 2003 to zero.

As can be seen in the accompanying chart, this increase will come close to holding the Comprehensive Transportation Program harmless through FY 2009. I appreciate the proposal to replace the loss of the sales tax transfer in FY 2003. I am concerned that next year both the Governor and the Legislature will be tempted to again suspend the sales tax transfer to KDOT. The Comprehensive Transportation Program cannot be successfully completed without the revenues anticipated when the program was passed by the 1999 Legislature.

Senate Assessment & Taxation
2-7-02
Attachment 2

Comparison of Budget Proposals

($000)	Agency Budget Request Updated for November Revenue Estimates TOTAL FY 2000-2009	Governor's Statutory Budget Submission with no project cuts TOTAL FY 2000-2009	Governor's Enhanced Budget Proposal with revenue Increases TOTAL FY 2000-2009
BEGINNING BALANCE	$ 559,875	$ 559,875	$ 559,875
Resources			
State Revenues			
Motor Fuel Taxes	$ 3,919,286	$ 3,919,286	$ 4,047,625
SGF (Sales Tax) Transfer	1,435,482	1,290,081	1,290,277
Sales & Compensating Tax	1,018,093	1,018,093	1,017,915
Registration Fees	1,370,728	1,370,728	1,399,918
Other Revenues	532,269	491,909	508,514
Total State Revenues	$ 8,275,858	$ 8,090,096	$ 8,264,249
Federal and Local Construction Reimbursement	3,528,848	3,528,848	3,528,848
Bond Sales (net)	1,277,298	1,277,298	1,277,298
AVAILABLE RESOURCES	$ 13,641,878	$ 13,456,116	$ 13,630,269
EXPENDITURES:			
Maintenance	$ 3,057,136	$ 3,058,768	$ 3,058,768
Construction	5,078,250	5,078,818	5,078,818
Modes	179,706	179,706	179,706
Local Support	2,699,443	2,705,478	2,705,691
Management	667,766	668,080	668,080
Transfers Out	517,928	517,928	517,928
Debt Service	1,295,923	1,295,923	1,295,923
TOTAL EXPENDITURES	$ 13,496,152	$ 13,504,700	$ 13,504,913
ENDING BALANCE	145,726	(48,584)	125,356
Minimum Ending Balance Requirement	441,555	440,870	440,877
AVAILABLE ENDING FUND BALANCE:	$ (295,829)	$ (489,454)	$ (315,521)

Provided by KDOT, February 7, 2002

ECONOMIC LIFELINES
KANSAS
700 SW JACKSON ■ SUITE #206 ■ TOPEKA, KANSAS 66603
(785) 235-0220 ■ FAX (785) 233-5440

To: Senate Tax Committee

Date: February 7, 2002

Subject: SB 452

The position of Economic Lifeline's and all its members on SB ~~450~~ 452 and any legislative action that affects the 1995 Comprehensive Transportation Program is reflected in the following points:

I. Unanimous resolution of the EL board expressing total opposition to any reduction in funding of projects (Attachment A-P.2, Sections 1 & 2).

II. Economic benefits to state-Babcock and Daicoff reports (Attachment B)-1989 Highway Program was a major stimulus to Kansas economy during national recession. Kansas fared better than national economy and other states.

III. Current status per KDOT-due to $90 million reductions in first three years and November, '01 revenue estimates this is where we stand today per KDOT:

a. If fully funded from this point-available ending balance 2009 (-296M)

b. If funded as recommended by SB 452-available ending balance 2009 (-315M).

c. If Demand transfer taken entirely (147M) just in Fy03 (green book) and not replaced (-489M).

c. If demand transfer removed every year for remainder of program (-1.5 billion) (Attachments C & D)

IV. Comparison Kansas and Missouri-

a. Recent report ranked Kansas fourth best roads in U.S. after 1989 program and first three years of 99 program; Missouri ranked 47th worst roads.

b. Missouri passed last program 1992-15 year program with announced projects. At end of 1999 MoDOT announced $19 billion shortfall and cancelled <u>all</u> projects previously promised.

Senate Assessment & Taxation
2-7-02
Attachment 3

c. As KDOT indicates-if demand transfer is lost for FY03 (147M)-cancel $78M system enhancements and $79M in major modification projects all previously announce and promised.

d. If no more demand transfer after this year-all system enhancements and many if not most major modifications go per KDOT. Kansas would return to early 80's of only maintenance and few bridges and difficulty with federal match.

V. Support for 1999 CTP

a. T-2000-105 counties, 12 regional meetings, 2,500 attendees, over 500 involved in presentations. Unprecedented public participation and support and financial commitment.

b. Legislature approved by over 70 percent in each house-unprecedented legislative commitment to transportation program.

c. A commitment by the Legislature to their communities and constituents.

VI. <u>The Problem</u>-

a. The funding formula is probably fatally and permanently flawed due to escalating dependence on sales tax demand transfer-currently only 6.46 percent (95M) suppose to be 11 percent going to 12 percent and remaining for life of program.

b. In foreseeable future, no economic recovery will restore sufficient growth to allow state to fund other obligations at adequate level and meet statutory demand transfer for CTP.

c. Greatest fear-if 100 percent of demand transfer (147M) is taken this year (even if replaced over seven years by governor's recommendation of one cent motor fuel and three percent registration fee increases-demand transfer won't be able to be funded in 04, 05, etc.

VII. <u>Solution</u>-

a. Some suggest modify projects-can't save enough to maintain a significant program over the 10 years.

b. Alternate funding formula-options:

1. Find additional SGF to maintain demand transfer.

2. Freeze demand transfer at current level and make up difference in motor fuels and registration fees.
3. Statutory mandate transfer of sales tax from transportation related sales by category rather than percentage (Attachment E).
4. Increase user fees to make up difference.
5. Increase sales tax and dedicate to highway fund.

VIII. Conclusion-

Economic Lifelines does not today have a specific proposal to submit, but is working on options.

One thing that we can guarantee.

Economic Lifelines, all its member organizations, all the state airports, public transit authorities, railroads, and every community that fought so hard for the projects they have been promised under the 1999 CTP will just as actively and aggressively support any reasonable funding alteration that fulfills the hopes, promises, and commitments addressed by the 1999 CTP.

Anything less will return Kansas to the woeful infrastructure conditions that we were suffering in the early 80's (and Missouri is currently suffering). We will do all in our power now and in the coming months to see that that does not happen.

A

ECONOMIC LIFELINES KANSAS

800 S.W. JACKSON STREET, #1408 ■ TOPEKA, KANSAS 66612-2214
785-235-1133 ■ FAX 785-235-2544 ■ LIFELINES@CJNETWORKS.COM

RESOLUTION

A RESOLUTION OPPOSING REDUCTIONS IN FUNDING FOR THE 1999 COMPREHENSIVE TRANSPORTATION PROGRAM.

WHEREAS, The 1999 Kansas Legislature enacted a ten year Comprehensive Transportation Program authorizing expenditures for projects and programs in all modes;

WHEREAS, the Legislature approved a program including the following highway system program improvements over ten years;

- Routine and substantial maintenance;
- Construction and reconstruction, including major modifications and priority bridges;
- System enhancement projects - ($1.05 billion);

WHEREAS, the Legislature approved increased assistance to local units of government over ten years including the following:

- an increase in the Special City and County Highway Fund;
- an increase in general local aid and in state aid for city connecting links maintenance from $2000 to $3000 per lane mile;
- new assistance for communities with railroad crossings not on the State Highway System;
- a program of credit enhancements for local units through the Kansas Transportation Revolving Fund;
- spending of at least $3 million in each county for highway, bridge, and substantial maintenance projects over the ten years;

WHEREAS, the Legislature also approved funding for other modal elements over ten years including the following:

- a loan program for railroad rehabilitation projects;
- the Kansas Airport Improvement Program;
- an enhanced public transit program including expansion of transportation for elderly and disabled;

WHEREAS, the Legislature approved revenue enhancements including the following to help finance these program commitments:

- authority to issue $995 million in twenty year bonds;
- a gradual four cent increase in motor fuels taxes;

a gradual increase in the sales tax demand transfers from the state general fund;

WHEREAS, communities throughout the state identified their transportation needs to the Governor's Transportation - 2000 Committee and to the Legislature as the basis for enactment of a program and the Legislature overwhelmingly enacted the ten year 1999 Comprehensive Transportation Program specifically to address as many of these identified transportation needs as possible and committed the necessary revenues to support such a program;

WHEREAS, pursuant to this program the Kansas Department of Transportation has already begun to identify projects in all modes which will be completed under this ten year program and is engaged in various stages of work on these projects;

AND WHEREAS, the Legislature must avoid reducing KDOT's funding in any individual year or on an overall basis to such a degree that it risks endangering the completion of projects and commitments due to the uncertainty of future occurrences over the life of the program;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Economic Lifelines:

SECTION 1. That is does hereby reiterate its support for the implementation of the total 1999 Comprehensive Transportation Program and the completion of all projects and commitments thereunder and the full retention of all funding components necessary to do so;

SECTION 2. That it does hereby express its strongest possible opposition to any reduction of funding of the 1999 Comprehensive Transportation Program, either on a yearly or overall basis, which could result in the elimination, modification or failure to complete any project which would otherwise be done under the program as originally enacted by the Legislature, or which would reduce the level of funding committed to local units of government;

SECTION 3. That it does hereby direct that copies of this resolution be presented to the Governor, and each individual member of the Kansas Senate and the Kansas House of Representatives.

ADOPTED BY THE BOARD OF DIRECTORS OF ECONOMIC LIFELINES ON, THIS 17TH DAY OF DECEMBER, 1999.

Fred Berry
Co-Chairman Economic Lifelines

John Montgomery
Co-Chairman Economic Lifelines

DON MOLER
League of Kansas Municipalities

JIM DEHOFF
Kansas AFL-CIO

RON BUTTS
Kansas Public Transit Association

BILL FULLER
Kansas Farm Bureau

ED DESOIGNIE
Heavy Constructors Association of Greater Kansas City Area

ANN CHARLES
JOBS, Inc.

JIM DAHMEN
Mid-America, Inc.

JIM JONES
Kansas Asphalt Paving Association

AL SILVERSTEIN
Great Bend Chamber of Commerce

RANDY ALLEN
Kansas Association of Counties

KEN BLACK
Kansas Association of Airports

DAN RAMLOW
Kansas Contractors Association

MIKE KELLY
Kansas Motor Carriers Association

JOHN FOWLER
Kansas Chamber of Commerce and Industry

TIM WITSMAN
Wichita Area Chamber of Commerce

JON DAVELINE
Hutchinson/Reno Co.Chamber of Commerce

GEORGE BARBEE
Kansas Consulting Engineers

MAX ZIMMERMAN
S.P.I.R.I.T. Group

CAROL MEYER
Garden City Area Chamber of Commerce

GEORGE WELLS
Kansas Cement Council

MARY BIRCH
Overland Park Chamber of Commerce

MARY TURKINGTON
Topeka, Kansas

JOHN KOGER
Kansas Good Roads

KEN JOHNSON
Kansas Aggregate Producers Association

CHRISTY CALDWELL
Topeka Chamber of Commerce

BUD BURKE
US 69 Highway Association of Kansas

HOWARD LOOMIS
Pratt, Kansas

ROY WESTHOFF
Kansas Ready Mixed Concrete Association

B

STATE OF KANSAS

KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Bill Graves
Governor of Kansas

BUREAU OF MATERIALS AND RESEARCH
MATERIALS AND RESEARCH CENTER
RESEARCH UNIT
2300 S. W. VAN BUREN
TOPEKA, KANSAS 66611
Phone: 785/296-7410
FAX : 785/296-2526
e-mail: dick@dtmrc.wpo.state.ks.us

August 14, 1997

Memorandum to : Kansas Contractors and Other Recipients

Subject : Impact of Kansas Comprehensive Highway Program

Enclosed is a complimentary copy of research report number KS-97/2 entitled "Economic Impacts of The Kansas Comprehensive Highway Program," by Dr. Michael Babcock and Bernt Bratsberg, Kansas State University, June 1997. The objective of this study was to measure the economic impacts of highway construction projects awarded during the eight year life of the Comprehensive Highway Program on all the industries in the state. The study found that economic impact of the $2.86 billion spent on K jurisdiction construction projects as measured by output was $7.4 billion, as measured by income was $1.4 billion and as measured by employment was 117,820 full time jobs.

Please contact Dr. Babcock or Richard L. McReynolds, Engineer of Research if you have questions about this report.

Sincerely,

L. S. Ingram, P.E., Chief
Materials and Research

R.L. McReynolds

Richard L. McReynolds, P.E.
Engineer of Research

enc.

c: Dr. Michael Babcock, KSU (w/a)
Bernt Bratsberg, KSU (w/a)
E. Dean Carlson (w/a)
W. Mike Lackey (w/a)
Mike Armour (w/a)
Nancy Bogina (w/a)
Robert Haley (w/a)
Terry Heidner (w/a)
Jim Jones (w/a)
Warren Sick (w/a)

3-9

EXPENDITURES:	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	FY 00-2009
Maintenance												
Routine Maintenance:	102,428	106,250	107,181	111,232	116,925	120,023	123,276	126,740	130,377	134,106	137,915	1,178,538
Substantial Maintenance:	172,432	146,414	176,951	182,643	182,465	188,578	195,303	203,016	211,178	219,618	228,267	1,878,598
Total Maintenance	274,860	252,665	284,132	293,875	299,390	308,601	318,579	329,756	341,555	353,724	366,182	3,057,136
Construction												
Major Modifications & Priority Bridges												
Construction Contracts	295,226	252,286	420,947	354,131	398,497	323,142	222,304	181,863	224,976	237,841	242,105	2,911,212
CE & PE	72,842	81,275	88,282	89,251	90,660	82,816	81,259	88,200	80,852	79,922	85,192	835,359
Total Major Modifications	368,068	333,560	509,229	443,382	489,157	405,958	303,563	270,062	305,828	317,763	327,297	3,746,571
System Enhancements												
State Expenditures	40,950	95,559	117,084	98,816	91,667	122,214	238,627	217,983	172,666	136,112	53,656	1,331,679
Total Construction	409,018	429,119	626,313	542,198	580,824	528,172	542,190	488,045	478,494	453,875	380,953	5,078,250
Modes												
Aviation	653	3,590	1,823	4,300	3,544	3,363	3,242	3,161	3,108	3,072	3,048	29,857
Public Transit	7,536	7,071	11,201	10,455	10,555	10,655	10,655	11,755	13,255	13,055	10,449	106,194
Rail	2,588	1,656	6,875	3,610	3,658	4,167	5,989	6,532	4,092	4,487	6,118	43,655
Total Modes	10,777	12,317	19,899	18,365	17,758	18,186	19,887	21,448	20,455	20,614	19,615	179,706
Local Support												
SC&CHF	151,450	154,204	154,957	154,845	156,427	158,293	159,994	161,587	163,183	164,781	166,384	1,579,722
Local Federal Aid Projects	78,622	58,347	90,079	121,000	92,156	61,893	56,957	62,433	67,193	70,680	71,610	759,359
Local Partnership Programs	19,555	21,735	22,799	23,572	24,418	25,216	26,402	27,609	28,812	29,250	29,707	249,367
City Connecting Links	2,784	2,994	3,360	3,360	3,360	3,360	3,360	3,360	3,360	3,360	3,360	32,658
Agency Operations	6,257	6,827	7,506	7,512	7,820	7,982	8,253	8,534	8,725	8,920	9,120	78,336
Other												
Total Local Support	258,668	244,107	278,702	310,289	284,181	256,744	254,966	263,523	271,272	276,992	280,181	2,699,443
Management	46,041	51,706	54,120	51,087	59,865	64,120	66,159	66,097	65,981	65,454	67,163	590,629
Buildings	6,190	3,656	11,429	7,616	8,315	8,375	7,309	7,981	8,080	8,184	8,293	77,136
Total	52,232	55,362	65,549	58,704	68,180	72,495	73,468	74,078	74,061	73,638	75,456	667,766
Transfers Out	50,235	42,637	49,511	49,500	50,732	52,077	53,488	54,991	56,569	58,187	59,840	517,928
TOTAL before Debt Service	1,055,791	1,036,207	1,324,106	1,272,930	1,301,066	1,236,274	1,262,577	1,231,841	1,242,406	1,237,029	1,182,226	12,200,228
Debt Service												
CHP Bonds	85,340	85,333	85,314	85,321	85,286	85,290	85,256	85,225	85,233	85,222	85,156	852,821
CTP Bonds	8,597	24,208	30,530	35,034	35,038	44,870	73,323	62,064	61,670	67,770	70,114	443,103
	93,937	109,541	115,844	120,355	120,323	130,160	158,579	147,289	146,903	152,992	155,270	1,295,923
TOTAL EXPENDITURES	1,149,728	1,145,749	1,439,950	1,393,285	1,421,389	1,366,435	1,421,156	1,379,130	1,389,309	1,390,021	1,337,497	13,496,152
ENDING BALANCE	782,177	1,004,609	610,884	400,875	182,999	298,451	399,195	247,857	182,660	145,726	(73,182)	145,726
Minimum Ending Balance Requirement	166,807	305,494	323,970	419,835	428,517	363,248	279,746	287,154	327,190	441,555	356,117	441,555
AVAILABLE ENDING FUND BALANCE:	615,370	699,115	286,913	(18,960)	(245,518)	(64,797)	119,449	(39,297)	(144,530)	(295,829)	(429,299)	(295,829)
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total FY 00-2009

NOTE: Required Ending Balances reflected.

1. Amounts required to satisfy bond debt service requirements
2. Funds allocated by statute for distribution to specific programs
3. A calculation of a necessary reserve to complete CTP projects
4. An amount necessary to provide for orderly payment of agency bills.

Revised Cash Flow reflecting Updated Construction Program and Budget Submission

Consensus Revenue Estimates Memo of November 2001 & Highway Revenue of November 2001

C

3-10

EXPENDITURES:	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	FY 2000-2009
Maintenance												
Routine Maintenance:	102,428	106,250	107,181	110,875	117,234	120,341	123,602	127,075	130,722	134,461	138,280	1,180,170
Substantial Maintenance:	172,432	146,414	176,951	182,643	182,465	188,578	195,303	203,016	211,178	219,618	228,267	1,878,598
Total Maintenance	274,860	252,665	284,132	293,518	299,699	308,919	318,905	330,091	341,900	354,079	366,547	3,058,768
Construction												
Major Modifications & Priority Bridges												
Construction Contracts	295,226	252,286	420,947	354,131	398,497	323,142	222,304	181,863	224,976	237,841	242,105	2,911,212
CE & PE	72,842	81,275	88,282	89,978	90,635	82,790	81,233	88,173	80,825	79,894	85,163	835,927
Total Major Modifications	368,068	333,560	509,229	444,109	489,132	405,932	303,537	270,036	305,801	317,735	327,268	3,747,139
System Enhancements												
State Expenditures	40,950	95,559	117,084	98,816	91,667	122,214	238,627	217,983	172,666	136,112	53,656	1,331,679
Total Construction	409,018	429,119	626,313	542,925	580,800	528,147	542,164	488,019	478,466	453,847	380,924	5,078,818
Modes												
Aviation	653	3,590	1,823	4,300	3,544	3,363	3,242	3,161	3,108	3,072	3,048	29,857
Public Transit	7,536	7,071	11,201	10,455	10,555	10,655	10,655	11,755	13,255	13,055	10,449	106,194
Rail	2,588	1,656	6,875	3,610	3,658	4,167	5,989	6,532	4,092	4,487	6,118	43,655
Total Modes	10,777	12,317	19,899	18,365	17,758	18,186	19,887	21,448	20,455	20,614	19,615	179,706
Local Support												
SC&CHF	151,450	154,204	154,957	154,846	156,474	158,331	160,027	161,619	163,214	164,812	166,414	1,579,935
Local Federal Aid Projects	78,622	58,347	90,079	121,000	92,156	61,893	56,957	62,433	67,193	70,680	71,610	759,359
Local Partnership Programs	19,555	21,735	22,799	23,572	24,418	25,216	26,402	27,609	28,812	29,250	29,707	249,367
City Connecting Links	2,784	2,994	3,360	3,360	3,360	3,360	3,360	3,360	3,360	3,360	3,360	32,658
Agency Operations	6,257	6,827	7,506	7,554	7,803	7,965	8,235	8,516	8,706	8,901	9,100	78,269
Other												
Total Local Support	258,668	244,107	278,702	310,332	284,211	256,765	254,981	263,536	271,284	277,003	280,191	2,699,588
Management	46,041	51,706	54,120	51,554	59,841	64,095	66,133	66,071	65,954	65,427	67,134	590,943
Buildings	6,190	3,656	11,429	6,356	9,575	8,375	7,309	7,981	8,080	8,184	8,293	77,136
Total	52,232	55,362	65,549	57,911	69,416	72,471	73,443	74,052	74,034	73,610	75,427	668,080
Transfers Out	50,235	42,637	49,511	49,500	50,732	52,077	53,488	54,991	56,569	58,187	59,840	517,928
TOTAL before Debt Service	1,055,791	1,036,207	1,324,106	1,272,550	1,302,616	1,236,563	1,262,867	1,232,137	1,242,709	1,237,340	1,182,544	12,202,887
Debt Service												
CHP Bonds	85,340	85,333	85,314	85,321	85,286	85,290	85,256	85,225	85,233	85,222	85,156	852,821
CTP Bonds	8,597	24,208	30,530	35,034	35,038	44,870	73,323	62,064	61,670	67,770	70,114	443,103
	93,937	109,541	115,844	120,355	120,323	130,160	158,579	147,289	146,903	152,992	155,270	1,295,923
TOTAL EXPENDITURES	1,149,728	1,145,749	1,439,950	1,392,905	1,422,940	1,366,723	1,421,446	1,379,426	1,389,612	1,390,332	1,337,814	13,498,811
ENDING BALANCE	782,177	1,004,609	610,884	274,146	70,192	201,893	320,049	187,324	141,858	126,041	(69,736)	126,041
Minimum Ending Balance Requirement	166,807	305,494	323,970	419,835	428,528	363,255	279,753	287,160	327,196	441,562	356,123	441,562
AVAILABLE ENDING FUND BALANCE:	615,370	699,115	286,913	(145,690)	(358,337)	(161,361)	40,296	(99,837)	(185,339)	(315,521)	(425,859)	(315,521)
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total FY 2000-2009

NOTE: Required Ending Balances reflected.

1. Amounts required to satisfy bond debt service requirements
2. Funds allocated by statute for distribution to specific programs
3. A calculation of a necessary reserve to complete CTP projects
4. An amount necessary to provide for orderly payment of agency bills.

Scenario: Governor's Proposal to eliminate Sales Tax Transfer in FY 2003 and provide
Updated Construction Program, Budget Submission, & November 2001 Revenue estimates

D

Kansas Department of Revenue
Office of Policy and Research
State Sales Tax - Vehicle Related

		FY 2001 Collections	Percent Of Total
5511 New and Used Car Dealers	$	146,936,872	10.1%
5521 Used Car Dealers	$	9,799,795	0.7%
5531 Auto & Home Supply Stores	$	18,159,126	1.2%
5541 Gasoline Service Stations	$	9,856,554	0.7%
5551 Boat Dealers	$	1,197,322	0.1%
5561 Recreational Vehicle Dealers	$	2,056,742	0.1%
5571 Motorcycle Dealers	$	3,270,332	0.2%
5599 Automotive Dealers, NEC	$	775,626	0.1%
Subtotal	$	192,052,369	13.1%
7513 Truck Rental & Leasing, No Drivers	$	2,651,030	0.2%
7514 Passenger Car Rental	$	1,990,751	0.1%
7515 Passenger Car Leasing	$	4,107,754	0.3%
7519 Utility Trailer Rental	$	57,661	0.0%
7521 Automobile Parking	$	23,313	0.0%
7532 Top & Body Repair & Paint Shops	$	7,783,512	0.5%
7533 Auto Exhaust System Repair Shops	$	409,065	0.0%
7534 Tire Retreading & Repair Shops	$	592,446	0.0%
7536 Automotive Glass Replacement Shops	$	889,027	0.1%
7537 Automotive Transmission Repair Shops	$	700,997	0.0%
7538 General Automotive Repair Shops	$	15,278,385	1.0%
7539 Automotive Repair Shops, Nec	$	1,339,272	0.1%
7542 Car Washes	$	2,016,623	0.1%
7549 Automotive Services, Nec	$	848,780	0.1%
Subtotal	$	38,688,616	2.6%
FY 2001 Total State Sales Tax Collections	$	1,461,819,207	100.0%

10.8

PMCA
of Kansas

MEMO TO: Senate Assessment and Taxation Committee
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas
DATE: February 7, 2002
RE: Comments on SB 452

Mr. Chairman and members of the Senate Assessment and Taxation Committee:

My name is Tom Palace and I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA), a statewide trade association that represents over 360 independent petroleum marketers, gasoline retailers and convenience store owners throughout Kansas.

I appreciate the opportunity to appear before you today in opposition to SB 452.

Petroleum marketers, just as the State of Kansas, are facing very tough economic decisions in the months to come. Unlike the government, petroleum marketers and convenience stores can't levy a tax to fulfill their budget needs. The explosion of the "big box" petroleum retailers who are selling fuel below cost has raised serious concerns for the independent marketer. Also, the effects of 9/11 are making their presence known as petroleum marketers are experiencing huge increases in their property insurance premiums. Couple these business issues with the spiraling health insurance costs, and it's no doubt that our small businessmen are feeling the money crunch. The proposed tax increase adds fuel to the fire, especially when marketers are trying to find ways to fund these budget items.

Many people think that the one cent increase in nothing but a pass-through cost. In the perfect world, that would be correct. However, with the advent of the "big box" retailers many marketers have had to absorb any increase in costs because they are competing against companies that are selling fuel below the acquisition cost. This situation is exacerbated when competing on the borders of Kansas. Cross border marketers currently hampered a 4 cent disparity (5 cents in '03) in cost in both Missouri and Oklahoma on gasoline. Marketers must make difficult decisions on pricing because on the Kansas side they compete with some Kansas companies selling below cost, and on the Missouri side because retailers can sell their fuel 4 cents cheaper due to lower the tax rates.

Consumers often wonder how gasoline is priced. It is really very simple. There is the product cost, which is the cost charged by the supplier (Phillips, Amoco, etc); there is the cost to transport the product from a terminal to an end user (gas station/convenience store); there are federal and state taxes and then there is the operator's profit (to cover overhead costs it is estimated that 4-7 cents is needed). However, in reality, price is based on competition. The petroleum industry is the only industry that I am aware of that posts prices daily, allowing consumers a choice as to where they will buy fuel. I know that people will drive several blocks to find a fueling location that sells fuel at the cheapest price. I use this example because the Kansas Legislature gave marketers in states bordering Kansas a competitive advantage when both the 1989 and 1999 Comprehensive Transportation Programs (CTP) were passed. Kansas marketers either have to lower their prices to meet the competition of bordering retailers, or stand firm on their price, albeit 2-4 cents higher, and watch customers drive a block or two, to trade at their competition.

Petroleum Marketers and Convenience Store Association of Kansas
201 NW Highway 24 • Suite 320 • PO Box 8479
Topeka, KS 66608-0479
785-233-9655 Fax: 785-354-4374

Senate Assessment & Taxation
2-7-02 Attachment 4

As do all Kansans, our members desire a safe, efficient highway system. In fact, since our livelihood depends on transporting safely a flammable material over the highways of our state, our members are acutely aware of the necessity of good roads. But our concern goes beyond the need to haul our petroleum products safely. We realize that a more fundamental business reality comes into play, and that is our vested interest in the highways of our state. Without them, there is no consumer demand for what we sell. With this in mind, PMCA did not lobby against the 1999 CTP.

However, PMCA does oppose SB 452 because the one cent motor fuel tax increase will be added to another one cent increase that will become effective on July 1, 2003, as the final funding phase of the CTP. This would put Kansas retailers at an even greater competitive disadvantage on the borders. After the 1999 CTP was passed, it would have made sense to build a store just across the Kansas line, as it would be a "no brainer" to make money selling fuel by being assured that the price differential between the states would guarantee drivers would fill up in the cheaper state.

When talking about price disparity, I would be remiss if I did not mention gasoline sold on the Native American Reservations. On August 21, 2001, we received notice for the Kansas Department of Revenue lifting the injunction that allowed Native American truck stops to sell motor fuel tax free. As soon as that ruling was received, Kansas distributors were informed that their services were no longer needed. Although the Reservation gas stations continue to sell gasoline and diesel fuel, it is not known whether or not the state is receiving the proper tax.

For comparison purposes, motor fuel taxes of states bordering Kansas are:

	Gasoline	Diesel
Colorado	22	20.5
Nebraska	24.5 (changes quarterly)	24.10 (changes quarterly)
Oklahoma	17	14
Missouri	17	17
Kansas	21 (22 cents 7/1/03)	23 (24 cents 7/1/03)

Petroleum marketers and convenience store retailers are in the same economic plight as that of the State of Kansas. We would not be here today if our industry could "just raise our prices" to fill budget deficits, but we can't because the market place and our competition won't let us. We are sensitive to the needs of the state, but we can't afford to incur a tax increase on every product we sell. The proposals that have been discussed thus far in legislative committees impact every aspect of our industry: sales tax, cigarette tax, and motor fuel tax. Along with escalating health care costs, insurance costs, compliance costs and employee costs it should be apparent as to why we do not support SB 452.

Thank you.

Is Gasoline a Bargain?

4-3-4

The Price of Gasoline, Adjusted for Inflation, is at Historic Lows

Gasoline Prices Trail Other Consumer Prices

Gasoline prices, particularly in recent years, have lagged well behind other consumer commodities. In fact, according to the U.S. Department of Labor, which tracks consumer prices, gasoline prices have risen at ***less than half*** the rate of increases for most other consumer goods.

Adjusted for inflation, prices are at their lowest level in more than 75 years.

Cleaner Gasoline – Cleaner Air

Today's gasolines are cleaner than ever, and the cars that run on them are far more efficient than earlier models, producing far less pollution. In fact, it would take 20 new cars to produce the pollutants that came from just one 1960's model, and that is making a noticeable difference in America's air quality. And the improvements are continuing. Today, many areas of the country require "reformulated" gasoline, and the fuels being used in virtually all parts of the country are far cleaner than the fuels we used even a decade ago.

Those air quality improvements have come at a cost, however, because the cleaner-burning gasolines are more expensive to produce, and that is reflected in the price you pay at the pump. It's a tradeoff, however, that most Americans are willing to make.

Some Typical Questions About the Cost of Gasoline

What causes the price of gasoline to rise?

There are many factors behind increases in the price of gasoline. The two largest components are the price of crude oil and taxes. Those two items account for the majority of what you pay at the pump. Supply and demand also play a major role. Gasoline, like any consumer product, responds to the market. Sharp increases in demand may cause the price to rise. Likewise, the price typically falls when demand drops.

Do gas station owners make more money when the price goes up?

The majority of times just the opposite is true. Gasoline retailing is a fiercely competitive business, and if a station's prices are out of line, it can very quickly lose customers to a competitor. When the wholesale price to the station owner goes up, oftentimes the owner will "eat" a portion of the increase, rather than pass the full amount through to his or her customers.

Then who is making money when the price goes up?

It may be that no one is really making much profit. For instance, in the case of a major oil company, if the price of crude oil goes up, the company may make additional profit on its "upstream" operations (exploration and production), but lose money on its "downstream" operations (refining and marketing). The oil industry has one of the lowest rates of return of all major industries, and that is ***particularly*** true for gasoline retailing.

Is the world running out of oil?

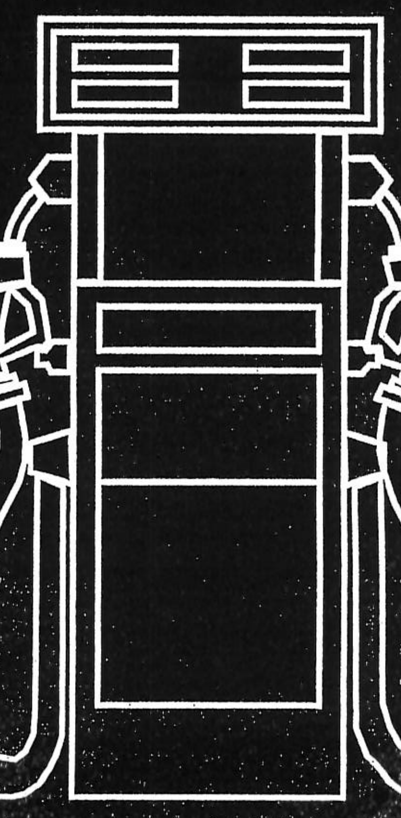
Far from it. By the most conservative of estimates, the world has at least another one hundred years of ***proven reserves*** (that which has already been discovered). And there are enormous amounts left to be discovered.

PMAA PETROLEUM MARKETERS ASSOCIATION OF AMERICA

1901 N. FT. MYER DRIVE ▪ SUITE 1200 ▪ ARLINGTON, VA 22209 ▪ 703-351-8000

4-4-3

Is Gasoline a Bargain?



Is Gasoline a Bargain?

You Bet It Is!

Americans Pay Less for Their Gasoline than Nearly Every Other Industrialized Nation

If you are like most Americans, you probably take gasoline pretty much for granted. You look at the gauge, note that it's time for a fill up, pull into the station, gas up, and you're on your way.

It's quick, easy, and, yes, even though you may not realize it, it's a good bargain. In fact, people in this country pay less, ***far*** less, for their gasoline than people living in any of the other major industrialized nations. Just look at what people pay for a gallon of gasoline in the following countries:

Japan:	**$3.76**
Italy:	**$4.09**
Germany:	**$4.03**
United Kingdom:	**$3.03**

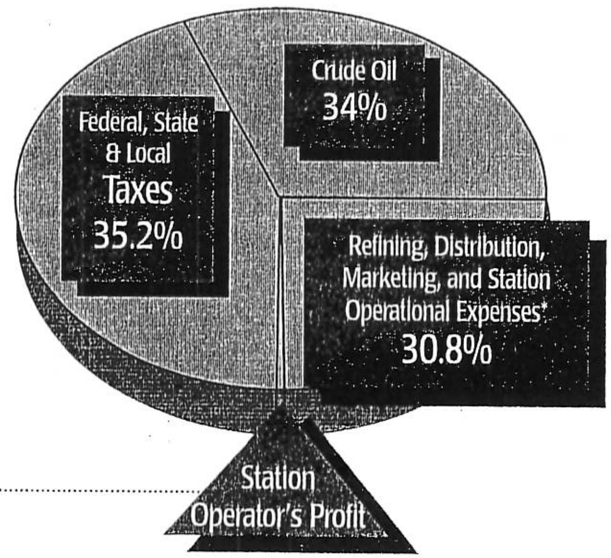
Source: Energy Information Administration

What Determines the Cost of a Gallon of Gasoline?

There are many factors that determine the price of gasoline, including the cost of the crude oil from which it is produced, the cost of refining and transporting the product, taxes, and the service station operator's cost of doing business.

The Smallest Portion of the Money You Spend on a Gallon of Gasoline Goes to the Station Owner as Profit

Components of the Price of a Gallon of Gasoline



*Station operational expenses include rent, employee compensation, equipment expenses, the cost of environmental compliance and various other expenses.

Taxes Are the Largest Component in the Cost of a Gallon of Gasoline

Taxes are the largest component in the cost of a gallon of gasoline, followed by the cost of the crude oil from which it is refined. The majority of the taxes collected on the sale of gasoline and diesel fuel are used to build and maintain the nation's transportation infrastructure, including our highways and bridges, and some of the money goes to our public transportation system.

The ***smallest*** portion of the money you spend on gasoline goes to the station operator as profit. In fact, petroleum marketing in general has one of the lowest returns on investments of any major industry. That is one reason so many stations have closed in recent years, and fewer and fewer new ones are being built. It is also why many stations are now operated in conjunction with convenience stores.

Gasoline Marketing Fiercely Competitive

Despite all the stereotypes of "Big Oil," the U.S. gasoline market is made up of tens of thousands of competitors. The corner gas station may be owned and operated by a major oil company, but it is far more likely to be owned and run by an independent operator.

And they are ***fiercely*** competitive, fighting to retain their market share. That competition is of enormous benefit to consumers, and is a major reason prices in this country are so low in comparison to other nations.

TAX RATES ON MOTOR FUEL - September 2001[1]

OCTOBER 2001 (CENTS PER GALLON) TABLE MF-121T SHEET 1 OF 2

STATE	GASOLINE		DIESEL		LIQUEFIED PETROLEUM GAS		GASOHOL 2/		
	RATE	EFFECTIVE DATE	RATE	EFFECTIVE DATE	RATE	EFFECTIVE DATE	RATE	EFFECTIVE DATE	EXEMPTION
Alabama *	18	06/01/92	19	06/01/92	17	06/01/92	18	06/01/92	-
Alaska	8	07/01/61	8	07/01/61	-	-	8	07/01/97	-
Arizona *	18	07/01/90	26	07/01/00	18	07/01/90	18	07/01/90	-
Arkansas *	20.5	07/01/00	22.5	07/01/00	16.5	04/01/91	20.5	07/01/00	-
	21.5	07/01/01					21.5	07/01/01	
	21.7	09/01/01	22.7	09/01/01			21.7	09/01/01	
California *	18	01/01/94	18	01/01/94	6	01/01/76	18	01/01/94	-
Colorado *	22	01/01/91	20.5	01/01/92	20.5	01/01/92	22	01/01/91	-
Connecticut *	25	07/01/00	18	09/01/91	-	07/01/96	24	07/01/00	1
Delaware *	23	01/01/95	22	01/01/95	22	01/01/95	23	01/01/95	-
Dist. of Col.	20	10/01/94	20	10/01/94	20	10/01/94	20	10/01/94	-
Florida *	13.6	01/01/01	25.9	01/01/01	16.0	01/01/98	13.1	01/01/99	-
Georgia	7.5	07/01/71	7.5	07/01/71	7.5	07/01/71	7.5	07/01/71	-
Hawaii	16	07/01/91	16	07/01/91	11	07/01/91	16	07/01/91	-
Idaho *	25	04/01/96	25	04/01/96	18.1	04/01/96	22.5	07/01/94	2.5
Illinois *	19	01/01/90	21.5	01/01/90	19	01/01/90	19	01/01/90	-
Indiana *	15	04/01/88	16	04/01/88	-	-	15	04/01/88	-
Iowa	20	01/01/89	22.5	01/01/89	20	01/01/89	19	01/01/89	1
Kansas *	20	07/01/99	22	07/01/99	19	07/01/99	20	07/01/99	-
	21	07/01/01	23	07/01/01	20	07/01/01	21	07/01/01	
Kentucky *	16.4	07/15/94	13.4	07/15/94	15	07/01/86	16.4	07/15/94	-
Louisiana *	20	01/01/90	20	01/01/90	16	07/01/93	20	01/01/90	-
Maine	22	08/01/99	23	08/01/99	21	08/01/99	22	08/01/99	-
Maryland	23.5	05/01/92	24.25	07/01/93	23.5	07/01/93	23.5	05/01/92	-
Massachusetts *	21	01/01/91	21	01/01/91	14.9	04/01/01	21	01/01/91	-
Michigan *	19	08/01/97	15	01/01/84	15	01/01/84	19	08/01/97	-
Minnesota *	20	05/01/88	20	05/01/88	15	07/01/95	20	05/01/88	-
Mississippi *	18.4	07/01/93	18.4	07/01/93	17	01/01/89	18.4	07/01/93	-
Missouri *	17	04/01/96	17	04/01/96	17	04/01/96	17	04/01/96	-
Montana *	27	07/01/94	27.75	07/01/94	-	-	27	07/01/94	-
Nebraska *	23.9	01/01/00	23.9	01/01/00	23.9	01/01/00	23.9	01/01/00	-
	24.5	07/01/01	24.5	07/01/01	24.5	07/01/01	24.5	07/01/01	
Nevada	24.75	01/01/97	27.75	01/01/97	22.00	07/01/97	24.75	01/01/97	-
New Hampshire *	19.5	07/01/95	19.5	07/01/95	18	06/16/91	19.5	07/01/95	-
New Jersey *	10.5	07/01/88	13.5	07/01/88	5.25	07/01/88	10.5	01/01/92	-
New Mexico *	18.5	10/01/00	19.5	10/01/00	6	01/01/98	18.5	10/01/98	-
New York *	22	01/01/01	20.25	01/01/01	8	01/01/01	22	01/01/01	-
North Carolina *	24.3	01/01/01	24.3	01/01/01	24.3	01/01/01	24.3	01/01/01	-
	24.1	37073.00	24.1	37073.00	24.1	37073.00	24.1	37073.00	
North Dakota *	21	07/01/99	21	07/01/99	21	07/01/99	21	07/01/99	-
Ohio *	22	07/01/93	22	07/01/93	22	07/01/93	22	07/01/93	-
Oklahoma *	17	07/01/89	14	07/01/89	17	07/01/89	17	07/01/89	-
Oregon *	24	01/01/00	24	01/01/00	24	01/01/00	24	01/01/00	-
Pennsylvania *	26	01/01/01	30.9	01/01/01	19	01/01/01	26	01/01/01	-
Rhode Island *	29	07/08/94	29	07/08/94	29	07/08/94	29	07/08/94	-
South Carolina	16	01/01/89	16	01/01/89	16	01/01/89	16	01/01/91	-
South Dakota *	22	04/01/99	22	04/01/99	20	04/01/99	20	04/01/99	2
Tennessee *	20	04/01/89	17	04/01/90	14	04/01/89	20	04/01/89	-
Texas *	20	10/01/91	20	10/01/91	15	01/01/87	20	10/01/91	-
Utah *	24.5	07/01/97	24.5	07/01/97	24.5	07/01/97	24.5	07/01/97	-
Vermont *	20	08/01/97	26	07/01/00	-	-	20	08/01/97	-
Virginia *	17.5	07/01/92	16	07/01/92	16	01/01/94	17.5	07/01/92	-
Washington *	23	04/01/91	23	04/01/91	-	-	23.00	05/01/94	-
West Virginia *	25.65	01/01/01	25.65	01/01/01	25.65	01/01/01	25.65	01/01/01	-
Wisconsin *	27.3	04/01/01	27.3	04/01/01	20	04/01/01	27.3	04/01/01	-
Wyoming *	14	07/01/98	14	07/01/98	-	-	14	07/01/98	-
Mean	19.966		20.149		14.948		19.679		
Weighted Avg.	19.067		19.725		13.94		19.777		
Federal Tax	18.4	10/01/97	24.4	10/01/97	13.6	10/01/97	13.1	01/01/01	5.3

LOWEST

HIGHEST

4-5

KMCA 65 YEARS

KANSAS MOTOR CARRIERS ASSOCIATION

P.O. Box 1673 ▪ Topeka, Kansas 66601-1673 ▪ 2900 S. Topeka Blvd. ▪ Topeka, Kansas 66611-2121
Telephone: (785) 267-1641 ▪ FAX: (785) 266-6551 ▪ www.kmca.org

Trucking Solutions Since 1936

Legislative Testimony by the Kansas Motor Carriers Association

In Opposition to Senate Bill No. 452

Presented before the Senate Assessment and Taxation Committee
Senator David Corbin, Chairman
Thursday, February 7, 2002 Statehouse, Topeka, Kansas

MR CHAIRMAN AND MEMBERS OF THE
SENATE ASSESSMENT AND TAXATION COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear before you this morning representing our 1,400 member firms and the Kansas trucking and highway transportation industry.

The Kansas Motor Carriers Association is opposed to the motor fuel tax and registration fee increases contained SB 452. Our opposition to the bill has nothing to do with our continued support of the 1999 Comprehensive Transportation Plan. The trucking industry simply cannot afford an increase in taxes at this time.

SB 452 increases the tax on all motor fuels (including diesel) by $.01 per gallon, effective June 1, 2002. There is already a $.01 increase scheduled to take effect on July 1, 2003. In addition, the bill increases motor vehicle registration fees by 3%. The registration fee increase provision becomes effective on July 1, 2002, instead of the normal start of the registration year on January 1. The Governor has also proposed elimination of the $147 million demand transfer from the state general fund to the state highway fund scheduled for FY 2003. He is proposing to pay back this one-time demand transfer reduction over the next seven years.

Truckers in Kansas currently pay substantial state and federal taxes. A 2001 Peterbilt truck tractor and semi trailer pays a $.23 ($.02 more than gasoline) per gallon state diesel tax and a $.244 ($.06 more than gasoline) per gallon federal diesel tax. The registration fee for an 80,000 lb. truck and trailer is $1,760. Additionally, this combination vehicle will pay a $550 federal heavy vehicle use tax; a federal excise tax which is 12% on the retail value of the vehicle and approximately $3,745 in ad valorem taxes.

Senate Assessment & Taxation
2-7-02 Attachment 5

Based on current state fuel tax, registration fees, property tax and other third-structure taxes, Kansas ranks third in the nation in amount of total state truck taxes. (See attached ranking).

Trucking business failures are at all-time high. The attached graph illustrates the plight of our industry. While fuel prices have dropped, insurance costs have increased dramatically. The American Trucking Associations and its 50 state affiliates, including Kansas, participated in a study of truck insurance rates that included 1,000 motor carriers. The study indicates that during 2001, primary truck insurance premiums increased 32%, on average, which is significantly higher than that registered in 2000. For those carriers that renewed after Sept. 11, 2001, the average premium increase was 37%. Umbrella insurance premiums jumped 87% in 2001. And for those renewing umbrella coverage after Sept. 11, 2001, the average increase was 120% with some carriers reporting more than a 1000% increase.

Additionally, trucking companies cannot afford to buy new and more efficient equipment. The *Washington Post* reported on Jan. 25, 2002, that President Bush would cut federal transportation money by $9.1 billion because a reduction in fuel tax collections, and a 50% reduction in the sale of new trucks, which reduces the amount of federal excise tax collected.

The American Trucking Associations recently reported that the industry average operating ratio increased in 2000 to 99.66 from the previously reported 1999 figure of 98.0. Based on the 2000-operating ratio, in order to pay the $ 202.35 per truck increase as proposed in SB 452, that one truck would have to produce an additional $57,514.71 revenue.

We all hope the economy will strengthen in the near future. Hopefully costs will come down and freight volumes will increase, but today, this is just wishful thinking. Mr. Chairman, the Kansas trucking industry is struggling mightily to make it through these tough economic times, therefore we must oppose the fuel tax and registration fee increases contained in SB 452.

Thank you for the opportunity to appear before you today. I would be pleased to respond to any questions you may have.

States Ranking for Total Truck Taxes

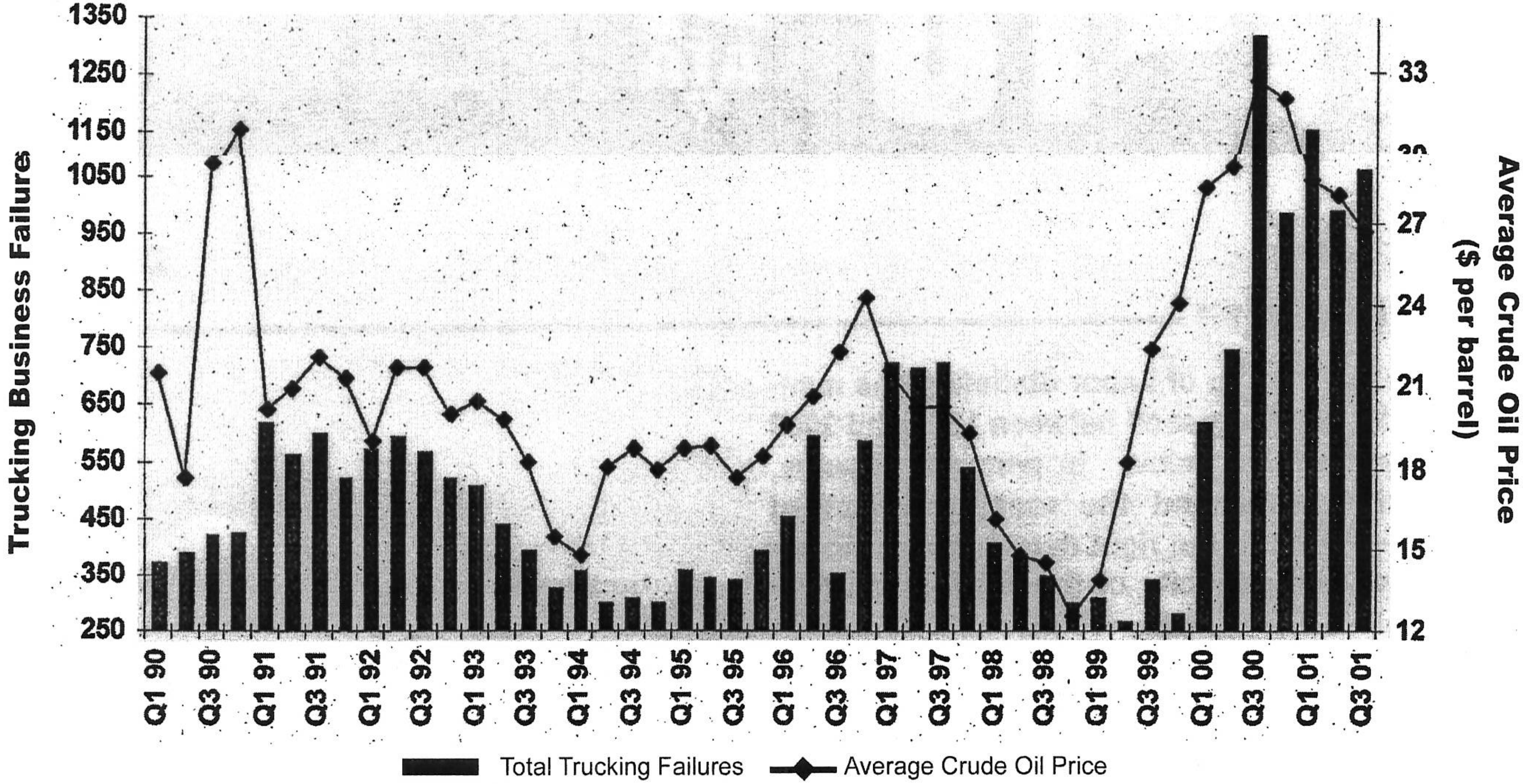
State	Regis. fees	Fuel tax rate	Fuel tax on 14,035 Gal.	Ad-Valorem tax	Other taxes	Total
OR	320	0	0	0	9576	9896
NY	968	0.2985	4189	0	3960	9117.2985
KS	1760	0.23	3228	3745		8733.23
AZ	3631	0.26	3649			7280.26
CA	1618	0.271	3803	1600		7021.271
IL	2790	0.296	4154	0		6944.296
WA	1608	0.23	3228	2044		6880.23
ID	3360	0.25	3509	0		6869.25
CO	1772.5	0.205	2877	2100		6749.705
CT	1520	0.18	2526	2435		6481.18
MA	1215	0.21	2947	2250		6412.21
WI	1967.5	0.303	4253	0		6220.803
KY	1260	0.12	1684	926	2280	6150.12
NV	1360	0.27	3789	952		6101.27
ME	877	0.23	3228	1920		6025.23
WV	1131.25	0.2565	3600	1163		5894.5065
PA	1507.5	0.309	4337	0		5844.809
VA	1368	0.16	2246	2153		5767.16
UT	666	0.245	3439	1360		5465.245
VT	1775.58	0.26	3649	0		5424.84
IN	1350	0.16	2246	1800		5396.16
MT	750	0.2775	3895	750		5395.2775
NC	963	0.241	3382	1042		5387.241
MO	1729	0.17	2386	1180		5295.17
AR	1350	0.225	3158	768		5276.225
NM	129.5	0.18	2526	0	2534	5189.68
NH	736	0.18	2526	1800		5062.18
WY	1400	0.14	1965	1620		4985.14
RI	1044	0.28	3930	0		4974.28
FL	970	0.2797	3926	0		4896.2797
IA	1695	0.225	3158	0		4853.225
NE	1280	0.245	3439	0		4719.245
SD	1457	0.22	3088	0		4545.22
OH	1340	0.22	3088	0		4428.22
MN	1595	0.2	2807	0		4402.2
DE	1280	0.22	3088	0		4368.22
MD	940	0.2425	3403	0		4343.2425
TN	1366	0.17	2386	577		4329.17
SC	800	0.16	2246	1088		4134.16
MS	1512	0.18	2526	0		4038.18
ND	1045	0.21	2947	0		3992.21
AL	845	0.17	2386	674		3905.17
TX	840	0.2	2807	0		3647.2
NJ	1087	0.175	2456	0		3543.175
GA	725	0.1108	1555	1239		3519.1108
LA	504	0.2	2807	0		3311.2
MI	1660	0.09	1263	0		2923.09
OK	948	0.13	1825	0		2773.13
HI	440	0.16	2246	0		2686.16
AK	221	0.08	1123	0		1344.08

Registration fees provided by International Registration Plan database
Fuel taxes provided by International Fuel Tax Agreement
Ad-Valorem taxes provided by American Trucking Associations
Information provided by Kansas Motor Carriers Association

2/7/02

Total Trucking Business Failures vs. Average Crude Oil Prices (Q1 1990 - Q3 2001)

5-4



Trucking business failures rose in the third quarter of 2001 to 1,065. This was a 7.6% increase from 990 failures during the second quarter of 2001. Average crude oil prices fell 4.7% in the third quarter of 2001 from the previous quarter, going from $28.02 per barrel to $26.69.

Presented by Kansas Motor Carriers Association
February 2002

Source: A.G. Edwards, Dun & Bradstreet

PMAK

Propane Marketers Association of Kansas

214 S.W. 6th Avenue, Suite 305 Topeka, KS 66603-3719 Phone 785-354-1749
Fax 785-354-1740
e-mail: jkholstin@pmak.net

Justin K. Holstin
Executive Vice President

Testimony on SB 452
Senate Assessment and Taxation Committee
February 7, 2002

Thank you Mr. Chairman and members of the committee, I appreciate the opportunity to speak with you today regarding SB 452. My name is Justin Holstin, and I am the Executive Vice President of the Propane Marketers Association of Kansas. PMAK represents over 300 businesses and individuals representing every aspect of the propane industry including exploration, processing, transportation, manufacturing, and local marketers service. The Propane Marketers Association of Kansas is opposed to several aspects of the legislation but remains neutral on the rest.

We understand and appreciate the gravity of the financial situation currently affecting Kansas and facing the Legislature. However, we do not believe that increasing taxes by a cent on motor fuels, including propane, is the appropriate step to take in addressing the situation.

The Propane Marketers Association of Kansas has always promoted propane as a clean and reliable alternative fuel in Kansas. Currently many citizens utilize propane not only as an energy source for their home but for many vehicle and agricultural applications including machinery and farm-vehicles. Although this bill would not affect the use of propane as a agriculture fuel, it would affect those who have over the road vehicles fueled by propane. Increasing the tax rate on motor fuels and propane will increase the operating expenses for farmers and ranchers that are already struggling to make ends meet in many cases.

Furthermore, an increase in the tax rate means an economic disadvantage to many of my members who sale propane for use as a motor fuel. Many marketers in Kansas are small family-owned business, or "mom and pops" that rely on customers who utilize propane for use in the home and on the farm where this tax would apply for vehicles. An increase in any operating expenses or fuels cost can mean less sales for propane marketers which can further the economic hardships that are currently being experienced.

As I said, the Propane Marketers Association of Kansas does understand the necessity of generating revenue, but feels that an increase in motor fuels tax will only bring more economic hardship to citizens of Kansas who need motor fuels and propane in their daily lives.

I appreciate the opportunity to discuss this legislation and request that due consideration be given before increasing the taxes on motor fuels in Kansas.

PROPANE
EXCEPTIONAL ENERGY

Senate Assessment & Taxation
2-7-02 Attachment 6

February 7, 2002

Mr Chairman and Members of the Committee

My name is Ken Suter and my family and I live in Kansas City, Kansas.

My company, SACO Petroleum Corporation is a distributor of gasoline and diesel products. We own and operate retail gasoline and diesel stations that also sell cigarettes, beer and other convenience store products.

These stations are located in Edwardsville, Leavenworth, Merriam and Kansas City, Kansas as well as on the Missouri side of the state line in North Kansas City and Kansas City.

My testimony today will clearly show a positive and a negative for my operations.

In regard to my Missouri locations, the higher the Kansas tax on fuel and cigarettes, the more my volume of business increases. We estimate that about 25% of our current Missouri volume is sold to Kansas license plates.

My Kansas locations do less than 50% of the business that the Missouri locations do.

We have Kansas based commercial trucking companies that purchase as much as 350,000 gallons of diesel annually in Missouri. It makes good business sense to save 6 cents a gallon.

Senate Assessment & Taxation
2-7-02
Attachment 7

Motor fuel is a very unique product. It touches virtually all of us daily and all of us read the price signs daily.

I recall testimony several years ago that approximately 70% of the Kansas population lives within about 30 miles of the eastern border. It is my opinion that a great deal of consideration should be given to Kansas being more competitive with Missouri.

Thank you for allowing to talk to you today. I would be happy to answer any questions.

Ken Suter

February 8, 2002

MEMO TO: Senate Assessment & Taxation Committee

FROM: Gary Davis, Leavenworth Amoco Service

DATE: February 8, 2002

REF: Senate Bill 452

My name is Gary Davis.

In 1988, I bought out an Amoco dealer who was retiring in downtown & 7 Highway in Leavenworth, Kansas. I borrowed one-half million dollars and in addition to the full service he offered, I added a convenience store and a brushless car wash.

In five years I doubled the volume of gas being pumped at this location to over one milllion gallons per year.

At this time, just one-half mile from my location across the Missouri borderline, a self-service station with a huge state tax difference, below our Kansas rates, opened.

In the following 4 years, my volume dropped about 400,000 gallons per year. In this length of time, I estimate about $50,000 of Kansas state fuel tax has moved over the border from Kansas to Missouri.

My loss in revenue was shared by several other operators on the Kansas side.

Senate Assessment & Taxation
2-7-02
Attachment 8

An onsite survey I did of traffic from Kansas going to Missouri for fuel revealed that more than one-half of the vehicles fueling at this Missouri site were from Kansas.

Any additional Kansas fuel tax increases will surely worsen this trend.

In my opinion, Kansas should freeze increases at this time and let the huge tax gap narrow.

With the tax gap narrowing, this would bring back revenues into our state and mor than make up for any increases at this time.

Sincerely,

Gary Davis

February 7, 2002

Memo To: Senate Assessment and Taxation Committee

From: Tony Tanking – Petroleum Division Manager

RE: SB452

Mr. Chairman and Members of the Committee:

I am the Petroleum Division Manager for the Ag Partners Coop, Inc., located in Hiawatha, KS. Our company achieves $40 million in sales in many product areas, including an Ampride Convenience Store, two (2) stand-alone cardtrol sites, and a bulk fuel delivery system.

I appreciate the opportunity to appear before you today in opposition to Senate Bill 452.

As a retailer of gasoline and diesel fuel, the petroleum industry has been a challenge to each and every one of us. Beginning in January 2000, wholesale fuel costs began a steady climb, pushing retail gasoline prices to over $1.70 by late summer. As the driving season came to a close, prices came down slowly, only to reach levels in January and February 2001 surpassing the previous summer. The biggest scare came this past September, after speculation of limited fuel availability caused consumers to storm fueling facilities in fear of encountering exorbitant fuel prices for any length of time. To date, the declining economy has driven fuel prices to the very low levels we see today.

As you see, this industry is one of great volatility. It is also an industry that handles products in demand every day to maintain our society's livelihood.

Retailers of over-the-road fuels not only have the challenge of dealing with volatility, but with the issues of business competition. Local distributors, regional distributors and national distributors are all vying for the same consumer dollar in every community, regardless of the community's size. The newest challenger in this area is the mass merchandising store chains (i.e. Wal-Mart, Albertson's, etc.) These new retailers provide a different challenge for current retailers in each and every community.

There is one thing in common with the retailers listed above. Each is required to pay the Kansas State Fuel Tax on each gallon of fuel they sell. A group of retailers you will not find listed above is the Native American owned fueling facilities located in northeast Kansas.

Currently, there are at least three (3) tribes that own retail fuel facilities in this region (Iowa Tribe, Sac & Fox Tribe, and Kickapoo Tribe). Every gallon of fuel sold through these sites is exempt from Kansas State Fuel Tax, currently amounting to $0.21 per gallon for gasoline, $0.23 per gallon for diesel fuel. With this exemption in place, these retailers were/are able to price their pumps at levels far below other retailers, without the

Senate Assessment + Taxation
2-7-02
Attachment 9

same exemption status. During the heightened tensions of high fuel prices over the past two (2) years, these facilities posted their prices in ranges of 15 to 20 cents per gallon below other competitor fuel sites in neighboring communities. The difference in pricing during this time attracted consumers from 20 to 30 miles away, luring revenue dollars away from local communities, as well as revenue dollars from the State of Kansas. The communities affected include Holton, Hiawatha, Sabetha and Seneca, in addition to the smaller communities in these surrounding areas.

On one occasion, I spoke with a representative from one of the companies that, at that time supplied one of the reservations with fuel. I was informed that this facility was selling approximately 8,500 gallons of unleaded gasoline per day. This referred to one of the three (3) grades of gasoline the facility offered to the public. At the current rate of \$0.21 per gallon for 365 days per year, this translated to \$651,525.00 in lost revenue for the State of Kansas, for one grade of gasoline from one fueling site. Add in the other grades of gasoline, as well as the diesel fuel, and the figure could very easily reach, or even exceed \$1 million annually per station, assuming all of these stations were selling fuel at the same rate per day.

Recently, the status of fuel tax exemption for Indian reservations was repealed, requiring that any fuel purchased from a distributor in Kansas, or imported into the State of Kansas was subject to the Kansas State Fuel Tax. Upon this ruling, several tribes have severed their ties to local distributors and aligned themselves with a Native American Tribe in Winnebago, Nebraska, located just south of Sioux City, IA. This tribe is a fuel distributor, delivering fuel with its own fuel transport. Speaking anonymously with individuals at the reservation fueling facilities, I was informed that the reservations would be able to avoid Kansas State Fuel Tax because of the acquisition of fuel from a sovereign nation supplier.

Though we heard in the news in 2001 of the great profits made by the conglomerate fuel entities (MobileExxon, BPAmoco, et.al.), these profits were made on the refining side of the fuel business. The retail fuel industry encountered one of the toughest years ever, as margins were squeezed by natural competition for America's fuel dollar. Over the past 5 years, profit margins on a national basis for fuel sales at the retail level in the U.S. have been on a continual decline. The averages become distorted by including the sales in the metropolitan areas of the country, where there is an abundance of people (potential customers). In rural America, regional and national companies use their economies of scale to compete against the local retailer, squeezing margins further. The advent of the hyper-market fuel retailer indicates fuel margins will continue to shrink. In each of these scenarios, the State of Kansas gets its revenue for each gallon of fuel sold.

As of this date, one of the fueling stations was priced five (5) cents per gallon below the communities surrounding it. If it were priced equally with the surrounding communities, with all other factors being equal (cost of fuel, delivery costs, Federal Excise Tax), this station is allowed to pocket the State Fuel Tax as additional profit margin, on top of the slim profit margins allowed to other fuel retailers in the state not accommodated with exemption to the Kansas Fuel Tax. This station's price position indicates it is willing to give up five (5) cents of the additional 21 cents it gets to lure customers in to its facility. Every new customer it gets is taken away from a facility that is paying the Kansas State Fuel Tax. While some retailers are struggling to make much less per gallon AND paying the Kansas Fuel Tax, these retailers are pocketing the State's 21 cents per gallon and gaining customers away from the neighboring communities. Level playing field for all retailers: NO. State of Kansas collecting all possible revenues: NO.

The proposed fuel tax increase of one (1) cent per gallon as stated in SB452 would accomplish 2 things: (1) Further widen the gap of competition for retailers not exempt from paying the fuel tax, and (2) provide additional incentive for residents in northeast Kansas to purchase their fuel at these facilities. The current state of our economy indicates that individuals are looking for ways to save money. "What better way to save money than to purchase my gasoline the cheapest way possible?"

I will not even get into the revenues lost from out-of-state (Nebraska) consumers that take advantage of cheaper gasoline in Kansas because of Nebraska's higher rate than Kansas. Nor will I focus on the lost Kansas revenues from consumers traveling to Missouri to take advantage of its lower fuel tax rates. These are additional reasons for failing the proposed tax increase, though.

I do not wish to appear as an opponent to the Native American community in this issue. The primary victims in this scenario are: (1) The State of Kansas – more specifically the citizens of Kansas that will have to deal with poorer road quality due to the lack of maintenance funding, and (2) The citizens of Kansas that will be required to bear the additional tax burden in one form or another because an avenue is available for some Kansans (Non-Native American) to avoid paying the State Fuel Tax. Those Kansans not having access to a reservation fueling site get to pay the fuel tax, as well as any new taxes passed into law. Would your constituents consider this fair?

Again, I thank you for the opportunity to appear before you in opposition to SB452.

Sincerely,

Tony Tanking – Petroleum Division Manager
Ag Partners Cooperative, Inc. – Hiawatha, KS

KANSAS TAXPAYERS NETWORK
P.O. Box 20050
Wichita, KS 67208

home.southwind.net/~ktn
316-684-0082
fax 316-684-7527

7 February 2002

Testimony Opposing S.B. 452
By Karl Peterjohn, Exec. Dir.

Two days ago Kansas Taxpayers Network testified in front of this committee in opposition to the other parts of the governor's package of state tax hikes. Our opinion is unchanged that this bill raising gasoline and motor vehicle taxes is just another part of what we described then as the "Western Missouri Retail Development Act of 2002." This legislature should not be passing bills that promote retail expansion in Missouri. This legislature should not be passing bills that weaken the private sector in Kansas by placing these firms at a competitive disadvantage with their competitors located only a short distance away.

If the governor's tax hike proposals are implemented in full Kansans at or near the state line in eastern Kansas will find state taxes on gasoline, cigarettes, groceries, most alcoholic beverages, and the general sales taxes are lower and in many cases lower by a substantial amount in western Missouri. Sadly, the same situation exists today in this high tax point on the prairie.

This same situation in varying degrees will also exist in other Kansas border areas, but obviously with the large population in eastern Kansas this impact will be felt primarily near the Missouri border. This is important since the expected increase in tax revenues will not meet expectations.

The increase in both gasoline and other fuel taxes as well as the motor vehicle fees is a new unfunded mandate onto an already overburdened private sector in this state. Kansas is in a recession. Raising taxes in a recession is a good way of making a bad economic situation worse.

In the early 1930's federal taxes were raised during the administration of President Herbert Hoover. The Hoover tax hikes took several forms including raising income taxes. The result was that the stock market collapse of 1929 led to a massive economic depression. Raising federal taxes at that time made a bad economic situation worse.

Raising Kansas state taxes in 2002 will also aggravate a bad economic situation. Fortunately, we are not in a situation as severe as the 1930's today but this legislature should realize that their actions can worsen Kansas' economic problems.

Kansas state government needs to reduce its spending appetite. Fortunately, while Kansas has significant problems we are not in the worst situation. Other states with a similar population, like Oregon, face larger state budget problems since their budget "shortfall" in the neighborhood of $1 billion. In California, that state's house and senate have both recently passed sizable recision legislation that is expected to be signed into law by Governor Gray Davis.

Raising Kansas gasoline taxes by over 4 percent after the sizable increases enacted in 1999 as well as raising motor vehicle taxes should be rejected by this committee. S.B. 452 should be rejected by the legislature.

Senate Assessment + Taxation
2-7-02
Attachment 10

LEGISLATIVE TESTIMONY

the Kansas Chamber of Commerce and Industry

The Unified Voice of Business

835 SW Topeka Blvd. • Topeka, KS 66612-1671 • 785-357-6321 • Fax: 785-357-4732 • E-mail: kcci@kansaschamber.org • www.kansaschamber.org

SB 408 February 7, 2002

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Assessment and Taxation Committee

by

Marlee Carpenter
KCCI Director of Taxation

Mr. Chairman and members of the Committee:

My name is Marlee Carpenter and I am here on behalf of the Kansas Chamber of Commerce and Industry and the Kansas Tax Coalition. We would like to express our support for SB 408.

In 1996, legislation was passed to eliminate confusion and to help in-state and out-of-state business. During that timeframe, a Kansas Supreme Court decision came down that reaffirmed a rule of law; Kansas uses the transactional test to determine what business income should be taxed in the state.

Senate Assessment + Taxation
2-7-02
Attachment 11

There are two ways to determine what income should be taxed: the transactional test and the functional test. It has been a long-standing rule that Kansas uses the transactional test.

Since the passage of the 1996 Legislation, confusion has once again surfaced about the determination of taxable income. SB 408 would eliminate the confusion and would assure that the transactional test is applied to determine what income is taxed in Kansas.

We believe that this bill has no fiscal impact, because of its clarifying nature and we urge you to support SB 408. I will be happy to answer any questions.

ALDERSON, ALDERSON, WEILER,
CONKLIN, BURGHART & CROW, L.L.C.
ATTORNEYS AT LAW

W. ROBERT ALDERSON, JR.
ALAN F. ALDERSON*
JOSEPH M. WEILER
DARIN M. CONKLIN
MARK A. BURGHART*
DANIEL W. CROW**
LESLIE M. MILLER
MICHELLE L. MILLER

2101 S.W. 21ST STREET
TOPEKA, KANSAS 66604-3174
MAILING ADDRESS: P.O. BOX 237
TOPEKA, KANSAS 66601-0237

(785) 232-0753
FACSIMILE: (785) 232-1866
WEB SITE: www.aldersonlaw.com

OF COUNSEL:
BRIAN FROST
THOMAS C. HENDERSON
JOHN E. JANDERA (RETIRED)

*LL.M., TAXATION
**LICENSED TO PRACTICE IN KANSAS AND MISSOURI

MEMORANDUM

TO: The Honorable David Corbin, Chairman
Senate Committee on Assessment and Taxation
FROM: Mark A. Burghart, Kansas Corporate Coalition
DATE: February 7, 2002
RE: Senate Bill No. 408

Thank you for the opportunity to appear in support of Senate Bill No. 408. The bill clarifies certain legislation that was enacted in 1996 that was a compromise between the Department of Revenue and the business community. The legislation was part of an effort to alleviate some negative perceptions of the tax climate in Kansas. The 1996 legislation effectively gave corporate taxpayers an option in terms of how to report income for Kansas corporate income tax purposes.

Kansas has adopted the Uniform Division of Income for Tax Purposes Act, K.S.A. 79-3271 et seq. Under that enactment, income may either be "business income" which is apportioned to all states in which a taxpayer does business or "non-business income" which is generally allocated to the state of commercial domicile of the taxpayer. There are two tests that are employed to determine whether income is apportionable business income. The tests are commonly referred to as the "transactions" test and the "functional" test. Kansas has historically utilized the transactions test to determine business income. When the 1996 legislation was enacted to create a ten-year irrevocable election to treat all income as business income, a question apparently arose as to whether Kansas had in fact inadvertently shifted from the transactions test to the functional test.

Senate Bill No. 408 confirms that Kansas has in fact retained the transactions test. The Department supports this legislation which has no fiscal impact per se. The legislation is purely clarification.

On behalf of the Kansas Corporate Coalition, I strongly urge the enactment of Senate Bill No. 408 to provide certainty to this important component of the state corporate tax structure. I would be happy to respond to any questions any of the Committee members may have.

Senate Assessment + Taxation
2-7-02
Attachment 12

S E OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REV E
Stephen S. Richards, Secretary

Office of Policy & Research
Richard L. Cram, Director
915 SW Harrison St.
Topeka, KS 66625

(785) 296-3081
FAX (785) 296-7928
Hearing Impaired TTY (785) 296-6461
Internet Address: www.ksrevenue.org

Office of Policy & Research

February 6, 2002

To: Senator David Corbin, Chair
Senate Committee on Assessment and Taxation

From: Richard Cram

Re: Department of Revenue Testimony in Support of Senate Bill 408

In the Department's view, this bill makes no substantive change to K.S.A. 79-3271(a) definition of "business income." However, the bill deletes the language from K.S.A. 79-3271(a) that may have caused confusion as to whether the functional test for determining whether income qualifies as "business income," was adopted in Kansas. In *Western Natural Gas Co. v. McDonald*, 202 Kan. 98, 446 P.2d 781 (1968), the Kansas Supreme Court held that only if income passes the transactional test will it be considered business income subject to apportionment. The transactional test is narrower than the functional test. As the Kansas Supreme Court stated: "The controlling factor in the transactional test for the determination of business income is the nature of the particular transaction giving rise to the income. To be business income, the transaction and activity must have been in the regular course of the taxpayer's business operations." *Western Natural Gas Co.*, 202 Kan. at 100. In contrast, the less restrictive functional test has been described as follows: "The functional test, rather than focusing on the particular transaction giving rise to the income as required by the transactional test, focuses on the utilization of the property in the business." *In re Tax Appeal of Chief Industries, Inc.*, 255 Kan. 640, 647, 875 P.2d 278 (1994). If the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, then it passes the functional test.

Language, *dicta*, in the recent Kansas Supreme Court decision in *In re Tax Appeal of The Kroger Co.*, Docket No. 83927 (2000), has caused confusion. The court "observed": "We note that the 1996 Kansas Legislature amended the tax statutes to include the functional test. L. 1996, ch.264, §1. In amending the statute, the Kansas Legislature recognized the non-uniformity resulting from excluding the functional test, amended the tax law to deal with the problem, and chose to limit the application of the functional test to tax years after December 31, 1995. K.S.A. 79-3271(a)." The Department has not interpreted the 1996 amendment to K.S.A. 79-3271(a) as adopting the functional test. The 1996 amendment gave taxpayers an election, binding for ten years, to treat all income as business income, subject to apportionment. The deletion that this bill makes from the K.S.A. 79-3271(a) definition of business income should help clarify that the 1996 amendment to that definition was not an adoption of the functional test.

Senate Assessment & Taxation
2-7-02
Attachment 13