

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 P.M. on February 20, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Hank Avila, Kansas Legislative Research
Bruce Kinzie, Revisor of Statutes Office
Betty Boaz, Committee Secretary

Conferees appearing before the committee:

Representative Virgil Peck
Ed Roitz, President Fleming Petroleum, Pittsburg, KS
Gratz Peters, Pump'n Pete's, Erie, KS
Eldo Hurlbutt, K & S Oil, Coffeyville, KS
Jerry Davidson, Crescent Oil, Independence, KS
Ken Gudenkauf, Legislative Liaison, KS Department of Transportation
Patrick Hurley, Economic Lifeline
Representative Jerry Henry
Representative Jene Vickrey
Charles Yunker, Adjutant, The American Legion, Department of Kansas
Representative Rob Olson

Others attending:

See attached list.

Chairman Hayzlett opened the hearing on **HB 2822**.

HB - 2822 -MOTOR VEHICLE FUEL TAX RATES NEAR STATE LINES

Chairman Hayzlett recognized Representative Virgil Peck as the first proponent for this bill. According to Representative Peck (Attachment #1) **HB 2822** creates a border zone for motor vehicle fuel within 3,000 feet of a state line, or if the city limit of a city starts within 3,000 feet, it includes the entire city limits. He said the fuel tax can be within one cent of the neighboring state's fuel tax.

The next proponent was Ed Roitz, President of Fleming Corporation of KS. He said they own and operate a Travel Plaza close to the Oklahoma border. According to Mr. Roitz (Attachment #2) Oklahoma has cheaper gas and diesel fuel and as a result customers who used to come into Kansas to buy lottery tickets, food, groceries and other products are now spending their money in Oklahoma.

Gratz Peters, co-owner of Pete's Corporation which has stores within 45 miles of the Missouri and Oklahoma borders, was the next proponent for **HB 2822**. According to Mr. Peters, (Attachment #3) a competitive border tax zone has the potential to generate millions of dollars in new revenues by stimulating economic development and increasing property values.

The next proponent was Eldo Hurlbutt, from Coffeyville, KS. He talked about the drop in gas sales and the number of convenience stores that have closed in and around Coffeyville because the sales are going to Oklahoma. (Attachment #4)

Jerry Davidson, Crescent Oil Company, Coffeyville, KS, was the next proponent. According to Mr. Davidson, (Attachment #5) they have experienced first hand the results of the tax differential between bordering states, giving them a competitive edge, and watching their volumes go across the state lines. He said this bill will allow them to compete with their neighboring states and bring back revenues.

Chairman Hayzlett drew the Committee's attention to the written testimony submitted by Joseph Wright of Wright Oil Inc., Medicine Lodge, KS (Attachment #6) and Dickie Rolls, Caney, KS (Attachment #7).

CONTINUATION SHEET

MINUTES OF THE House Transportation Committee at 1:30 P.M. on February 20, 2006 in Room 519-S of the Capitol.

There being no other proponents, after the Committee's questions were answered, the Chairman called for opponents of **HB 2822**.

The first opponent of this bill was Ken Gudenkauf (Attachment #8). According to Mr. Gudenkauf this bill would effectively create up to five different tax rates for motor vehicle and special fuels. Mr. Gudenkauf also said that enactment of this bill would result in a reduction of motor fuel tax collections deposited in the State Highway Fund and the Special City and County Highway Fund.

The next opponent of **HB 2822** was Patrick Hurley, representing Economic Lifeline. (Attachment #9) According to Mr. Hurley the situation is the contention that because all of the surrounding states have a lower motor fuels tax than Kansas, except for Nebraska, that it is having a severe detrimental impact on service stations on the Kansas side of those state lines, and could cause Kansas service stations to go out of business. Mr. Hurley said that every other service station in Kansas that was more than 3,000 feet from the state line but in the same county, etc. would all still have to charge the full state rate. They would suffer the ultimate irony of being at a terrible competitive disadvantage against other Kansas retailers fortunate enough to be in that "reduced rate zone" defined in this bill.

The last opponent of **HB 2822** was Representative Jerry Henry. Representative Henry said his district borders on the State of Missouri to the east and the State of Nebraska to the North (Attachment #10) and when a Kansas resident drives over a state line to purchase less expensive gasoline, the State of Kansas loses approximately 24 cents in tax revenue on every gallon of gas. Representative Henry said that even though he supports the concept of **HB 2822** there are still a number of questions concerning how this bill would be implemented.

There being no additional opponents, and after the questions had been answered, the Chairman closed the hearing on **HB 2822**. It was the feeling of the Committee that this might make a good summer study.

Chairman Hayzlett opened the hearings on **HB 2951**.

HB 2951 - Designating part of US 36 Highway as the World War I Veterans Memorial Highway

Chairman Hayzlett introduced Representative Jene Vickrey According to Representative Vickrey (Attachment #11) the last World War I Veteran in Kansas is now 106 years old and lives in Smith Center. US 36 Highway passes through Smith Center. He concluded by saying that naming a part of US Highway 36, the World War I Veterans Memorial Highway, we recognize the service and dedication of a generation who preserved our nations's freedoms.

The next proponent was Charles M. Yunker, Adjutant, American Legion (Attachment #12) who asked for the Committee's support of **HB 2951**.

The last proponent was Representative Rob Olson (Attachment #13). According to Representative Olson it is thought that this World War I Veteran is perhaps the nation's oldest living Marine and he asked the Committee to favorably pass **HB 2951**.

There being no additional proponents and no opponents, Chairman Hayzlett closed the hearing on **HB 2951**.

It was the Chairman's desire to work **HB 2951** so he opened it up for the Committee's discussion, comments or motions. Representative Ballard made a motion to favorably pass this bill out of Committee. This motion was seconded by Representative Olson and the motion carried.

It was also the Chairman's desire to work **SB 373** and he opened it up to the Committee. Bruce refreshed the Committee about the bill. Representative Yonally made a motion to pass this bill favorably to the Consent Calendar, Representative Menghini seconded the motion and the bill carried.

The Committee's attention was drawn to the Minutes of the February 2, 2006 meeting. Representative Burgess made a motion to approve the Minutes, it was seconded by Representative Olson and the motion carried.

CONTINUATION SHEET

MINUTES OF THE House Transportation Committee at 1:30 P.M. on February 20, 2006 in Room 519-S of the Capitol.

There being no further business, the meeting was adjourned. The next meeting will be on February 21, 2006, at 1:30 p.m. in Room 519-S.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2-20-06

NAME	REPRESENTING
Charles M Yunker	THE AMERICAN Legion
L E HURLBATT	K & S OIL CO
Tamara Peck	
Ken Peterson	KS Petroleum Council
Bob Tottan	K-C-A
Martin Haavev	Haavev's General Report

HOUSE TRANSPORTATION COMMITTEE

DATE 2-20-06

NAME	REPRESENTING
Tom PACE	AMCA OF KANSAS
Jerry Davidson	Crescent O.I. Company
Gratz Peters	Pete's Corporation
Ed Roitz	Fleming Corp. of Kansas
Ken Gudenkauf	KDOT
Steve Gill	CRESCENT OIL CO.
Jon Lumsden	Crescent and
Andy Tooney	Crescent Oil Co.
Hani F Lakhani	Lakhani Comm Corp.
Tom Whiraker	KS Motor (CARRIAGES PRESS)

STATE OF KANSAS

VIRGIL PECK, JR.
REPRESENTATIVE, DISTRICT 11
BOX 251
TYRO, KANSAS 67364

STATE CAPITOL - RM 427-S
TOPEKA, KANSAS 66612-1504
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HOUSE OF REPRESENTATIVES

TESTIMONY ON HB 2822 February 20, 2006

Kansas taxpayers are giving millions of dollars to Oklahoma and Missouri, and I don't like it. I want those dollars in Kansas. Therefore, I asked this committee to sponsor HB 2822.

HB2822 creates a border zone for motor vehicle fuel. Within 3,000 feet of a state line, or if the city limit of a city starts within 3,000 feet it includes the entire city limits, (see attached amendment) the fuel tax can be within one (1) cent of the neighboring state's fuel tax.

The gasoline tax in Kansas is twenty-four (24) cents per gallon and the diesel tax is twenty-six (26) cents. The gasoline and diesel tax is much lower in Oklahoma (17 & 14) and Missouri (17.55 & 17.55), a little lower in Colorado (22 & 20.5) and higher in Nebraska (27 & 27).

Many places I have gone since the announcement of HB 2822, I've had people tell me how this bill is a good idea. Although several live in an area that will not see a reduction in fuel prices, they understand HB 2822 will bring addition revenue to Kansas and that is good for all of us.

I received an e-mail from a man in Parsons, which is not close to a state line, indicating his support of lowering the fuel tax on our borders. He made several good points. I will give you a brief overview of the e-mail. He said when he first heard about HB 2822 he didn't like it because it wouldn't benefit him. He went on to say; "The more I think about it the more sense HB 2822 makes." He then talked about people who travel across the state line to purchase fuel; "...and while there they support the local restaurants, car dealers, and who knows what else. Not only is the state of Kansas losing excise taxes on these purchases but also the sales tax. ...I believe that HB 2822 will generate millions of new tax dollars for the State of Kansas by taking them away from Missouri and Oklahoma..." He closed by saying; "Therefore, I strongly support HB 2822 regardless of where the border line is. We all need to consider that HB 2822 will benefit all Kansans in due time given the opportunity."

House Transportation
Date: 2-20-06
Attachment # 1

There are convenient stores/gas stations just across the state line on many routes out of Kansas. We should ask ourselves why is this? I believe it is because these places are very profitable to the owners.

We will probably hear from the opponents how we cannot afford to lose the revenue that HB 2822 will cause and that we will be taking money away from the Comprehensive Transportation Project. I respectfully (and strongly) disagree. I would not support HB2822 if I felt we would be giving up revenue. As has been stated before, I believe we will see an increase in state revenue.

When a motorist purchases gasoline in another state we do not receive the twenty-four cents per gallon that we do when they purchase it in Kansas. I am confident we will see an increase in fuel purchases on the state line in Kansas. This will give the state coffers eighteen cents per gallon rather than the zero (0) we receive when they make a purchase in another state.

I can think of several reasons, and you will hear some from others today, as to why we should pass HB 2822. You may find fault with some of the reasons, but the reason all of us as legislators should support this bill is because it will bring revenue to Kansas.

**TESTIMONY OF ED ROITZ
HOUSE TRANSPORTATION COMMITTEE
Monday, February 20, 2006**

**THANK YOU MR. CHAIRMAN, AND MEMBERS OF THE
COMMITTEE FOR THIS OPPORTUNITY TO PRESENT FACTS AND ALSO
MY OPINIONS, ON THE UNFAIR SITUATION CREATED BY THE
TAXATION POLICY OF THE STATE OF KANSAS.**

**MY NAME IS ED ROITZ, AND I AM PRESIDENT OF FLEMING
CORPORATION OF KANSAS. WE ARE THE OWNER AND OPERATORS OF
A TRAVEL PLAZA/TRUCK STOP LOCATED ON EXIT # 4 ON INTERSTATE
35 IN SOUTH HAVEN, SUMNER COUNTY, KANSAS.**

**WE OFFER TRADITIONAL PRODUCTS THAT YOU'D EXPECT FROM
A CONVENIENCE STORE. WE'LL SELL YOU A POP, MAKE YOU A PIZZA,
AND WE GIVE LOTS OF DIRECTIONS FOR FREE!**

**DO WE SELL LOTTERY TICKETS, YOU ASK? SURE. WE USE TO
SELL SO MANY, INCLUDING POWERBALL, THAT I'M TOLD WE WERE
ONE OF THE TOP 5 RETAIL OUTLETS IN THE ENTIRE STATE OF KANSAS
SELLING SUCH TICKETS. THAT IS, UNTIL THE STATE OF OKLAHOMA
BEGAN ITS OWN LOTTERY LAST YEAR, AND LATER ADDED
POWERBALL. WE HAVE EXPERIENCED A DROP IN LOTTERY SALES OF
OVER 45 PERCENT SINCE OKLAHOMA CHANGED THEIR STATE LAWS
ALLOWING LOTTERY, AND INDIRECTLY DEMONSTRATING THE
STRENGTH OF THE COMPETITION ARGUMENT. THOSE RESIDENTS OF
OKLAHOMA THAT WERE COMING ACROSS THE STATE LINE TO BUY**

LOTTERY TICKETS BECAUSE WE HAD WHAT THEIR HOME STATE DID NOT: LOTTERY TICKETS.

RIGHT NOW OKLAHOMA HAS WHAT WE CAN NOT PROVIDE: CHEAPER PRICES ON GASOLINE AND DIESEL FUEL. OKLAHOMA IS 13 CENTS CHEAPER ON DIESEL FUEL, AND 7 CENTS LOWER ON GAS.

OH, AND THOSE CUSTOMERS WHO USED TO COME INTO KANSAS TO BUY THEIR LOTTERY TICKETS, ALSO WOULD SPEND MONEY ON FOOD, GROCERIES AND OTHER PRODUCTS, GENERATING KANSAS SALES TAX. OBVIOUSLY, CONSUMERS VOTE WITH THEIR WALLETS, AND THESE FOLKS ARE NOT COMING TO KANSAS TO SPEND MONEY.

THE ARGUMENTS OF OUR STATE BUREAUCRATS THAT IT WOULD BE UNFAIR OR UNMANAGEABLE IS NONSENSE. OTHER STATES PERFORM THIS FUNCTION ON BEHALF OF THEIR TAXPAYERS. ARKANSAS IS THE CLOSEST EXAMPLE. THE ARKANSAS MOTORISTS IN THE IMMEDIATE AREAS AROUND THE CITIES OF FORT SMITH, TEXARKANA, AND WEST MEMPHIS ARE PROTECTED BY THEIR STATE GOVERNMENT.

TODAY, I HAVE BROUGHT WITH ME A COPY OF THE LATEST PROPERTY TAX STATEMENT PAID ON THIS SITE. ASK YOURSELVES HOW MUCH PROPERTY TAX IS BEING COLLECTED BY THE STATE OF KANSAS, LOCAL SCHOOL DISTRICTS, CITIES, AND COUNTIES FROM THE MERCHANTS ACROSS THE STATE LINES THAT ARE REAPING THE

**BOUNTY OF CHEAPER FUEL TAXES. HOW MUCH STATE FUEL TAXES
ARE BEING COLLECTED FOR KANSAS?**

THE OBVIOUS ANSWER IS "ZERO".

**IN CONCLUSION, I WOULD STATE THAT BRINGING EQUITY AND
FAIRNESS TO THE KANSAS MOTOR FUEL TAX ALONG THE STATE
BORDERS WOULD NO DOUBT INCREASE INCOME INTO THE STATE
COFFERS FOR ITS WONDERFUL HIGHWAY CONSTRUCTION AND
MAINTENANCE PROGRAM. I WOULD BE HAPPY TO ANSWER ANY
QUESTIONS THE COMMITTEE MAY HAVE.**

THANK YOU.

February 20, 2006
House Transportation Committee Hearing
Re: HB 2822

Mr. Chairman and Committee Members

Thank you for your time today to allow us to express our views pertaining to House Bill 2822.

My name is Gratz Peters and I am co-owner of Pete's Corporation. Our company operates convenience stores and has retailed motor fuels in Kansas for 28 years. We also operate stores in Oklahoma and Missouri. Our Kansas stores are all within 45 miles of the Missouri and Oklahoma borders none of which would meet the requirements proposed in HB 2822.

In recent years we have seen first hand our motor fuel sales significantly decline due in large part to the higher excise tax on motor fuels in Kansas when compared to Missouri's and Oklahoma's. Our merchandise categories have suffered as well. Along with these declining sales our property values have also declined making the funding of needed capital improvements a challenge.

When HB 2822 was first brought to my attention my reaction was: Would it benefit me or any of my direct competitors where I currently retail? No. Could it possibly incentivise new competitors that would further slice an already shrinking sales pie? Yes. Then I realized that we retailers on the Kansas side are not getting these sales now that these new competitors would intercept from Missouri and Oklahoma. All of the roads leaving Kansas that I'm aware of already have motor fuel retailers on the Missouri and Oklahoma side of the border capitalizing from Kansans trying to save money and thereby avoiding Kansas taxes. When you consider that 37% of all Kansans live within the first county of Missouri and Oklahoma the number of Kansans crossing the border for their purchases is sizable. I live two counties in from both Missouri and Oklahoma and I am continually amazed at the number of people I know of that make planned weekly day trips to cross these borders to purchase their consumables. These purchases are not only negatively affecting my industry, they are affecting other Kansas businesses as well. Grocers, clothiers, home improvement stores, car dealers, and restaurants are losing sales too. Kansas also loses the sales tax on these purchases.

All considered I believe that a "Competitive Border Tax Zone" has the potential to generate millions of dollars in new revenues for the State of Kansas. Taking these dollars from bordering states would not only put added pressure on them to increase their excise taxes but also reduce our need to further raise ours. It would also help stimulate economic development and increase property values. Although I do not believe HB 2822 goes far enough to incentivise investment in this zone I support this bill and ask for your consideration to support it also. I believe that it will benefit all Kansans given the opportunity.

Thank you again for your time and for your service to the people of Kansas.

Gratz Peters

House Transportation
Date: 2-20-06
Attachment # 3

Border Tax Bill 2822

- ❖ Coffeyville Sales in January
 - Too Feb 1, 2002 141,300 gal.
 - Too Feb 1, 2003 126,235 gal.
 - Too Feb 1, 2004 97,790 gal.
 - Too Feb 1, 2005 87,108 gal
 - Too Feb 1, 2006 77,323 gal.

- ❖ Closed 7/11 / Kum & Go / A&J / So Walnut Hwy 169 Closest to Woodshed in Oklahoma
Sold 39,613 gallons average monthly – Last month before closing 7408 gallons

- ❖ Casey's 11th Street Hwy 166—fairly new store, now for sale.
Casey's 2nd store—NW part of Coffeyville, still open, smaller, older store?

- ❖ Speedy Mart – Closed 1 ½ years—Reopened recently by owner

- ❖ Bowser Convenient Store Hwy 166 Closed— Now offices

- ❖ Siggins Street Convenient Store Hwy 169 west—Closed—Canopy and pumps removed—
Now Beauty Shop

- ❖ Woodshed in Oklahoma selling 500,000 ± gallons monthly. If we get relief 400,000 ±
gallons of that will come back to Kansas.
400,000 X .18 per gal. = \$72,000 tax for Topeka

- ❖ Today KS is \$2.19 per gallon; S. Coffeyville, OK is \$2.02 per gallon. Normally there will be
an eight or nine-cent difference, but they are having a local price war. ☺

- ❖ We can do business in Coffeyville if we can be competitive.
Example: KS raised cigarette tax, OK put smoke shops all over S. Coffeyville. They
took 50% ± of our business! OK raised cigarette tax, we are close to selling what we
were before.
See below—Sales tax!
 - Sept 2004 too Jan 2005 \$34,209.91
 - Jan 2005 too May 2005 \$47,565.97

2/16/06

House Transportation
Date: 2-20-06
Attachment # 4

CRESCENT OIL COMPANY, INC.
CORPORATE OFFICE

February 20, 2006

Good afternoon Mr. Chairman and Committee Members:

My name is Jerry D. Davidson and I represent Crescent Oil Company on House Bill #2822, as well as a concerned resident of Coffeyville, Kansas.

I want to thank you for the opportunity to speak on this subject.

My State Representative, Virgil Peck, recently brought this bill to my attention at a local meeting.

Our companies operate fuel outlets in Kansas near the Oklahoma and Missouri borders. In addition, we supply fuel to over 300 outlets throughout Kansas, Oklahoma, and Missouri. Crescent Oil Company, Inc. has been in business since 1915 located in Independence, Kansas. We collect and pay over one million dollars (\$1,000,000) in motor fuel taxes to Kansas per month. Therefore, we realize how much revenue the State of Kansas is loosing.

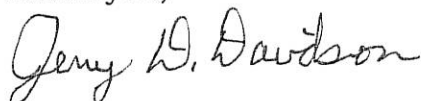
We have experienced first hand the results of the tax differential between bordering states, giving them a competitive edge, and watching our volumes go across the State lines. In my hometown of Coffeyville alone, two of our sites have been forced out of business along with two competitor's sites.

At our remaining sites, the fuel volumes and inside (merchandise) sales have decreased tremendously. A new competitor built on the Oklahoma side and Kansas taxpayers are financing it. By our estimate, within the City of Coffeyville alone, \$510,000 (250,000 gal/mos x \$.17 x 12 months) per year in Kansas fuel excise taxes are lost across the Oklahoma line. According to our estimates, we would receive \$174,000 (\$510,000 minus \$336,000) - (400,000 gal/mos x \$.07 X 12 months) in additional revenues on fuel excise tax alone when this bill is approved.

This Bill will allow us to compete with our neighboring states, which will bring back revenues to the State of Kansas and us. Our State will receive additional revenues for fuel taxes, sales tax, cigarette taxes, lottery, and other businesses will benefit by allowing the consumer to shop in Kansas.

Mr. Chairman and Committee members we support this bill because it will provide additional revenues for our State and keep those revenues working for Kansas.

Thank you,



Jerry D. Davidson
VP Operations

WRIGHT OIL INC



301 W. FOWLER PO BOX 367 MEDICINE LODGE, KS 67104
Phone 620-886-3791 Fax 620-886-3046

Joseph "Garry" Wright, V.P.
Wright Oil, Inc.
Medicine Lodge, Kansas

I would like to thank this committee for the opportunity to address the issue of differential taxing on fuel between Oklahoma and Kansas, and the impact it has on businesses along the border. Wright Oil operates a truck stop in Medicine Lodge and a convenience store in Kiowa. The store in Kiowa is called the "Little Store" and has lost a lot of business to Oklahoma. Currently, many of our customers are driving across the border to Burlington, Oklahoma and buying gasoline at the co-op. Additionally, many people are going to Alva, Oklahoma, and buying tobacco and groceries at Wal-Mart. This is evident from the large number of Barber County tags displayed in the parking lot. This impacts the local stores in Kiowa that are not directly involved with the sale of fuel.

The tax differential on gasoline is currently \$.07 cents. Both states have a LUST tax that is imposed and removed as funds are needed. When Kansas is on and Oklahoma is off, the total tax makes it possible for a store in Oklahoma to sell gasoline at a price that is close to my cost. There is a saying in the convenience store business that a dollar at the pump equals a dollar in inside sales. The loss of gasoline sales also means that the higher profit inside sales are diminished. The situation with regard to diesel fuel is much worse, and in terms of total economic impact, may be larger than gasoline.

When the truckstop in Medicine Lodge had parity with Oklahoma, diesel fuel sales were around four thousand gallons a day. As the tax differential increased, now at \$.13 cents, sales nosedived. We currently have daily sales of about 850 gallons. Any semi-truck can cross Kansas without fueling. Most drivers are unaware of the tax requirements and simply buy based on the posted price. If a grain hauler delivers a load to Union Equity in Enid and then fuels, he can cross Kansas, load in Nebraska or Iowa, and return to Enid without buying any fuel elsewhere. This is a common practice. His company, as a member of IFTA, will pay the higher taxes for miles traveled in Kansas and Nebraska, but the sale is lost to a Kansas retailer.

Western Kansas and South Central Kansas are both blessed with good roads, light traffic, and long distances. A twenty mile trip to shop for anything is a common occurrence. Any tax zone proposed for relief should be on the order of twenty-five miles.

Thank you for your attention. If I can answer any questions that you might have, I would be happy to do so.

House Transportation
Date: 2-20-06
Attachment # 5

February 16, 2006

Representative Virgil Peck

State Capital

Room 427-S

Topeka, KS 66612-1504

Dear Representative Peck and Committee Members:

This letter is in regard to Senate Bill #2822. I own two businesses in Caney, Kansas and have seventeen employees with a yearly payroll of \$270,000. From the beginning of 2006 I have had to lay off three people with more to come.

With the *Methamphetamine* laws and the state regulating products containing *Ephedrine* being taken off the shelves and not being sold, it has strongly impacted my business. Then compounded with the Native American cigarette tax and the State of Oklahoma cigarette tax, those sales have declined and at one time completely stopped.

Also, with Oklahoma receiving the lottery, my two locations alone that brought in 5 million in sales has been lost, and of that 98% was Oklahoma revenue. It all changes once again with the eight cent gasoline tax differential (state of Kansas to the state of Oklahoma) which has caused a very large portion of sales to go seven miles into Oklahoma to buy fuel. Sales were 160,000 gallons per month at both locations, are now down to 60,000 per month and continuing to decline (**100,000 gallons per month x 24¢ x 12 months = \$288,000 per year at one site**).

As you can see with these four revenue income producing items being taken away, the state of Oklahoma is receiving a very unfair competitive advantage. The amount of gas tax and sales tax the state of Kansas does not receive amounts to millions of dollars annually. In my opinion, the state needs to find ways to keep revenue, jobs, and tax money in the state of Kansas, not in the state of Oklahoma.

During two annual meetings, the OPMA (Oklahoma Petroleum Marketers Association) discussed how they will do everything possible to keep their state gasoline tax advantages and have actually made jokes outwardly about this tax advantage at their membership meetings.

If you have any questions, please feel free to call me.

Sincerely,

Dickie Rolls

House Transportation
Date: 2-20-06
Attachment # 7

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE HOUSE TRANSPORTATION COMMITTEE

House Bill 2822

Altering the Rate of Tax on Motor-vehicle Fuel or Special Fuels Near the State Line

February 20, 2006

Mr. Chairman and Committee Members:

Good morning. My name is Ken Gudenkauf, Legislative Liaison for the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on House Bill 2822.

This bill would require Kansas retailers located within 3,000 feet of a state line, or located within any city that adjoins a state line, to collect an alternative tax rate for gasoline/gasohol and diesel sold to consumers. Retailers would be required to collect a rate of one cent per gallon above the rate imposed by the neighboring state, not to exceed rates under current Kansas law. This bill would effectively create up to five different tax rates for motor vehicle and special fuels.

While trying to remedy a competitive burden, this bill essentially moves the state border over 3,000 feet, or in some cases the entire width of a city for the purpose of levying a lower fuel tax. Paradoxically, this would create a competitive burden for those retailers located just outside of the new border. For example, retailers located in Lenexa, Olathe, and Shawnee would collect a higher tax than retailers located in neighboring Kansas City, Leawood and Overland Park.

Furthermore, enactment of this bill would result in a reduction of motor fuel tax collections deposited in the State Highway Fund (SHF) and the Special City and County Highway Fund (SCCHF). While it is impossible to accurately estimate the fiscal effect of the bill, assumptions can be made that highlight the impact from changes in the motor fuel tax rate.

In FY 2005, approximately 1.7 billion gallons of fuel was sold in the state. Let's assume demand is flat, and 1.0 percent of gasoline/gasohol and diesel sales experience a reduction of \$.06 and \$.08 per gallon, respectively. For every 1.0 percent of fuel sold, tax receipts would lower by approximately \$1.1 million per year. This example clearly illustrates how any reduction in motor fuel tax rates can significantly impact the SHF and the SCCHF. It should also be noted that the population of Kansas City, Leawood, and Overland Park comprise roughly 12.0 percent of the entire state population. Therefore, we feel it safe to assume that these and other affected geographical areas would account for more than 1.0 percent of motor vehicle fuel sales.

Given the current financial situation of the cash flow forecast for the SHF, any further reduction in anticipated revenues jeopardizes the completion of the Comprehensive Transportation Program. Therefore, KDOT does not support passage of this legislation.

House Transportation
Date: 2-20-06
Attachment # 8

Testimony
of
Patrick J. Hurley
on behalf of
Economic Lifelines

Presented to the
House Transportation Committees
on
House Bill 2822
on
February 20, 2006

Mr. Chairmen and Members of the Committees:

I am Pat Hurley and appear on behalf of Economic Lifelines in opposition to HB 2822.

Economic Lifelines finds it somewhat ironic that since the passage of the 1999 Comprehensive Transportation Program we have worked continuously with members of this Committee and the entire Legislature to maintain the necessary funding to complete every project announced by KDOT for the entire 10-years of that program.

As you know, due to drastic economic downturns, the past two Governors and the Legislature have had to reduce transfers into the Highway Fund by literally several hundred million dollars. Each year we have worked with you all to apply bandaied approaches to keep it afloat.

Finally in 2004, a new funding package was adopted, designed to permanently fix the funding for the remainder of the program. That package passed with the support of 97% of the House and 88% of the Senate. So far this session we have continued to work to see that each of the components of that package has been honored.

We are pleased that the \$210 million in additional bonding was approved by the Legislative Committees (including this one) and by the State Finance Council. Likewise, the first year's installment on the \$125 million loan repayment is included in the Governor's budget and was just approved last Friday by the full House Appropriations Committee.

The final element, the increase in the percentage of the sales tax going into the Highway Fund, is locked into statute and we believe is safe from any reduction in appropriations.

Nevertheless, this session has seen a plethora of bills and attempts to tap into either the Highway Fund (for example the Bio-Diesel bill, which would tap the Highway Fund for \$3.5 million, or a Wildlife and Parks bill, which would increase motor vehicle registration fees by \$5 and give it to parks, or an appropriation from the Highway Fund of \$1 million to pay for salaries in Wildlife and Parks) or bills that would tamper with the traditional revenue sources such as HB 2822 would do.

The irony is that we are yet to hear a single legislator tell us that he or she does not support maintaining the necessary funds to complete the 1999 program and yet at the same moment we are seeing this rash of bills, which if passed, would work against accomplishing that very goal.

Specifically, HB 2822 is an attempt to deal with a situation that has been raised many, many times for as long as Economic Lifelines has been in existence and in fact for even longer than that.

That situation is the contention that because all of the surrounding states have a lower motor fuels tax than Kansas, except for Nebraska, that it is having a severe detrimental impact on

service stations on the Kansas side of those state lines, and could cause Kansas service stations to go out of business.

However, before the legislature ever enacted such a bill as HB 2822, you would need to know the answer to many questions.

- What is the actual differential in tax rates between Kansas and the border states?
- More importantly, what is the differential in the actual sales price between competing stations across state lines?
- How many stations are there on both sides of all four borders within 3,000 feet of the state line?
- How many stations are located within the city limits of any city in Kansas, which adjoins a state line?
- How many of the sales would be made to “actual consumers of the motor fuel” as opposed to another retailer?

All of these are questions are raised directly by the language in the bill.

I can suggest a few other even more pertinent questions that would have to be answered before such legislation was ever passed.

What would this do competitively to every other service station in Kansas that was more than 3,000 feet from the state line but in the same county, or in any other city that did not adjoin the state line?

These service stations would all still have to charge the full state rate. They would suffer the ultimate irony of being at a terrible competitive disadvantage against other Kansas retailers fortunate enough to be in that “reduced rate zone” defined in the bill.

Finally, the most serious questions of all would be how much revenue would the state of Kansas lose from such a bill, how adversely would it impact KDOT’s ability to complete the 1999 Comprehensive Transportation Program, and how great would be it’s detrimental impact on any future program in Kansas?

Until all of these questions can be answered with any certainty such legislation should not be enacted into law.

For all of these reasons Economic Lifelines opposes the passage of HB 2822.

STATE OF KANSAS

JERRY HENRY

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TOPEKA

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NCSL ASSEMBLY ON FEDERAL ISSUES-
HEALTH COMMITTEE

February 20, 2006

Chairman Hayzlett, Members of the House Transportation Committee,

Thank you for the opportunity to testify today in favor of HB 2822.

My district, District 63, borders on the State of Missouri to the east and the State of Nebraska to the North. It is commonly known that many Kansas residents drive across state lines to purchase motor fuel because of tax differentials. When a Kansas resident drives over a state line to purchase less expensive gasoline, the State of Kansas loses approximately 24 cents in tax revenue on every gallon of gas.

My testimony today is in favor of the concept of HB 2822. But I also know that there are still a number of questions concerning how this bill would be implemented. How will this bill affect stations located just outside the target zones? Will this bill increase tax revenue for the State or will it cost us in lost tax revenue?

Mr. Chairman, I would ask that the House Transportation Committee to continue to study this important issue. I firmly believe that it is worth our effort to hopefully keep as much of our gas tax revenues in Kansas as we can.

House Transportation
Date: 2-20-06
Attachment # 10

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

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CHAIRMAN - HOUSE COMMITTEE ON
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AND ELECTIONS

COMMITTEE ASSIGNMENTS
TRANSPORTATION
FINANCIAL INSTITUTIONS

JENE VICKREY
6TH DISTRICT

February 20, 2006

Testimony of Representative Jene Vickrey
HB 2951 - Designating part of U.S. 36 Highway as the
World War I Veterans Memorial Highway

Our Transportation Committee has an extreme honor today in beginning the process to name a part of U.S. 36 Highway the World War I Veterans Memorial Highway. The last World War I Veteran in Kansas is now 106 years old and lives in Smith Center. U.S. 36 Highway passes through Smith Center.

It is right for us to remember the service of World War I Veterans, the direct person to person knowledge of their heroism and service must be preserved, and their acts recorded and recognized.

Many of us don't realize the sacrifice and service of men, women, and their relatives in preserving our democracy and our freedoms. Every generation since our country's founding, men and women have put their personal lives, hopes, and dreams aside as they answer the call to meet the challenge to defend our nation.

My father, a World War II Veteran, always taught me that the freedoms in our country are paid for by our veterans.

World War I Veteran, Martin Walter Herrstrom, only shared his war record if asked. He was one of three who started the war in the U.S. Army 30th Infinity (Old Hickory) Division to be still on active duty at the end. When a shell went off close to him, his rifle was the only thing that showed and he was found before he died. When he came home at the end of the war, he lost one lung from the mustard gas used for years in the trench battles. The doctors had trouble keeping his other lung from building up fluid. He had to leave the Iowa cattle farm life he loved and move to Arizona for many years. He was proud to serve our country and never complained. His three sons served in the military. His oldest son served in World War II. Another son, Walter Herrstrom Jr., enlisted during the Korean War as a Marine and served under our country's most decorated soldier, Chesty Porter. Mr. Porter received 24 purple hearts. Walter Jr., as a machine gunner, took part in the battle of Pork Chop Hill. He was one of four left in his division at the of the Korean War. Walter Sr.'s other son served in the Atomic Commission.

By naming a part of U.S. Highway 36, the World War I Veterans Memorial Highway, we recognize the service and dedication of a generation who preserved our nation's freedoms.

House Transportation
Date: 2-20-06
Attachment # 11

**TESTIMONY IN FAVOR OF
HOUSE BILL 2951
PRESENTED BY
CHARLES M. YUNKER, ADJUTANT
THE AMERICAN LEGION
DEPARTMENT OF KANSAS**

Thank you for providing me this opportunity to express The American Legion's appreciation and support of House Bill 2951. Our organization believes designating that portion of U.S. Highway 36 which passes through Smith County in Kansas as the World War I Veterans Memorial Highway a fitting tribute to those Kansas citizens who served our nation in what was then known as the "War to End All Wars".

The American Legion also believes that particular portion of U.S. 36 is a fitting tribute to our state's last remaining veteran of World War I, Mr. A.F. "Jud" Wagner, a resident of Smith Center, Kansas who at the age of 106, is believed to be the oldest living United States Marines. I wish to thank the House Committee on Federal and State Affairs for introducing House Bill 2951 and urge its passage.

House Transportation
Date: 2-20-06
Attachment # 12

STATE OF KANSAS

Robert (Rob) Olson
REPRESENTATIVE, 26TH DISTRICT
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HOUSE OF
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Committee Assignments:
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Financial Institutions
Transportation
Utilities

February 20, 2006

The Honorable Gary Hayzlett, Chairperson
House Committee on Transportation Committee
State House Room 519-S
Topeka, Kansas 66612

Subject: HB 2951

Smith County in North-Central Kansas is home to the last known World War I veteran in the State. Albert F. "Jud" Wagner is an 87 year member of the American Legion and is thought to be the oldest living Marine in the nation at 106 ½ years old. Given Mr. Wagner's Service to our Country, his status as the last WWI veteran in Kansas and as perhaps the nation's oldest living Marine, I would ask the Committee to designate the portion of U.S. 36 Highway that runs through Smith County, where he resides, as the "World War I Veterans Memorial Highway."

A handwritten signature in black ink, appearing to read "Rob Olson", written in a cursive style.

Rep. Rob Olson
26th District

House Transportation
Date: 2-20-06
Attachment # 13