Opposition to HB 2427 – Repeal of Dyed Diesel Tax Exemption

May 5, 2015

Good afternoon Mr. Chairman and members of the Committee. My name is Pat Hubbell and I represent the Kansas Railroad Association. I am here today to speak in opposition to H.B. 2427 because it unfairly targets the taxation of railroad diesel fuel and significantly increases the cost of rail transportation required by many Kansas shippers.

House Bill 2427, if enacted, will have the following impact on railroads.

- Repeals the excise tax exemption for dyed diesel fuel used for nonhighway purposes and imposes a 5 cent per gallon tax on all nonhighway users.
- The tax proceeds will be used to directly benefit railroads' major competitor, the trucking industry.
- After July 1, 2018, the 5 cent gallon tax is repealed for everyone other than nonhighway users.

This is bad tax policy. Railroad investment should be encouraged in Kansas, not penalized.

- The proposed 5 cent per gallon tax on dyed diesel purchased by railroads is unfair in that it will be used to fund highway infrastructure
- During 2015, the railroad industry will invest over $200M to build its own rail infrastructure to serve Kansas shippers and has invested over $1.5B in rail infrastructure over the last 10 years
- Imposing an additional burden on railroad to fund infrastructure used by its competitors is unfair and poor tax policy
- Imposing a highway tax on off highway fuel is unprecedented and violates the purpose of imposing a tax to fund highways. Locomotives cannot use the highways and accordingly do not receive any benefit from the construction/maintenance of highways. Railroads should not pay a tax to do so.
- Dyed diesel fuel used by railroads can only be used off-highway and is not subject to federal excise taxes (or, under current law, Kansas excise taxes) used to maintain the highway system. This is different than truckers who use undyed diesel fuel on-highway and, as a result, are subject to federal and Kansas excise taxes used to maintain the highway system.

This tax is harmful to Kansas' economic development.

- Rail transportation services become more expensive and this hidden tax will be passed onto our customers. This will result in higher costs for transporting Kansas imports and exports, which will have an overall negative impact on Kansas' economic development.
- Most of the states surrounding Kansas exempt locomotive fuel from taxes and none of the western states impose this new unprecedented type of tax. Kansas should not do this.

This tax targets the railroads and we believe creates a new discriminatory tax in violation of 49 U.S.C. Section 11501, also known as the 4R Act.

Taxation should be aligned to support key public policies, like job creation, energy savings, and a cleaner environment. Since rail transportation is the cleanest and most efficient form of transportation, the continuation of the tax exemption supports the transport of goods by rail. Additionally, taxes should never be imposed upon one industry to support its competitor. Based upon the above, I respectfully request you vote in opposition to H.B. 2427.