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TESTIMONY

Date: March 7, 2016

Before: The House Committee on Taxation

By: Woody Moses, Managing Director
Kansas Ready Mixed Concrete Association

Regarding: HB 2631, Concerning, the refund of motor fuels tax paid for the operation of a Power Take Off (PTO) connected to a ready-mixed concrete vehicle, and the appropriate method of calculation.

Good Afternoon Mr. Chair and Members of the Committee:

My name is Woody Moses, Managing Director of the Kansas Ready Mixed Concrete Association. The Kansas Ready Mixed Concrete Association (KRMCA) is a state wide trade association comprised of over 170 members located or conducting operations in all 165 legislative districts in this state, providing basic building materials to all Kansans. I appreciate the opportunity to appear before you today to express our support regarding HB 2631.

HB 2631, introduced at our request, is a bill which seeks to provide good policy, if you will, regarding the appropriate method of calculating the refund of motor fuels tax associated with the non-highway use of motor fuels by a ready mix concrete truck. The bill would simply codify, or place into statute, the motor fuel tax policy our industry has been operating under for the last thirty years. A policy that simply states an operator of a ready mixed concrete truck shall be allowed to deduct a flat 22% of motor fuel tax to account for non-highway portion of motor fuel use. This policy was initially developed with the cooperation of Kansas Department of Revenue (KDOR) almost thirty years ago and was utilized by our members up until around 2013. When, through a member tax audit, we learned KDOR unilaterally abrogated that agreement; in favor of having each member conduct a "PTO Study" (Attachment A) to establish the actual use of motor

fuel by the PTO. Even though two national studies have reported that actual PTO fuel usage in a ready mixed concrete truck averages is above 30% (see Attachment B).

In our opinion approval of HB 2631 would provide a win-win fiscal policy for the state and concrete producers for the following reasons:

- Provides a positive fiscal note:

  PTO Study:

Motor Fuel Revenue (1330 x 6000 x $.26)	2,074,800
Less: 30%	(622,440)
Net Revenue	$1,452,360

  Flat 22%:

Motor Fuel Revenue (1330 x 6000 x $.26)	2,074,800
Less: 22%	(456,456)
Net Revenue	$1,618,344
Revenue Increase	**$165,984**

- Relieves concrete producers of excessive, onerous and vague study requirements

With respect the fiscal note (Attachment C) that has been provided for this bill we take strong exception. To us and our legal counsel as well, it appears that whoever prepared this note made the assumption this was a 22% exemption as opposed to a 22% flat vs. a 30% (avg.) deduction Also, an assumption was made there are 650 trucks in Kansas when there are actually 1330; a 50% variance in accuracy. At the very least KDOR should be called upon to explain this difference or revise the note. In this time of financial stress it is crucial that policy makers use every means available to develop greater revenue; having accurate information available on which to make a decision is imperative.

We urge the committee to recommend this bill favorable for passage, as it will:

- Provide the State with more revenue
- Provide concrete producers alternative from gong to the expense to perform an eights step PTO Study,
- Shield producers from the risk of a "winner take all" audit.
- Allow KDOR staff more time to pursue other projects

Alfred Einstein once offered the following definition of "Insanity: doing the same thing over and over again and expecting different results". Please end this insanity by recommending HB 2631 favorable for passage.

Thank you for your time and consideration, I will be happy to respond to any questions you may have at the appropriate time.

PTO TEST INSTRUCTIONS

Purpose: This test determines the number of non taxable gallons by, first, computing the number of highway gallons using a rate of consumption (miles per gallon) and subtracting those gallons from the total gallons dispensed into the unit.

First, each type of vehicle shall be tested to determine the operating fuel efficiency while operating at the empty weigh with zero power to the "take off" pump. Second, each type of vehicle shall be tested to determine the operating efficiency with zero power to the "take off" pump by disconnecting the power shaft while conducting the tests.

> Note: This will provide an accurate relationship to the fuel required to transport concrete to the unloading site while traveling on public streets and roadways.

All Fuel shall be metered into each vehicle, including the date, number of gallons and mileage or hours driven or recorded. The following method shall be used in performing steps to determine highway and non highway fuel rates. These steps must be documented.

1. Determine the empty weight of the truck and mixer with the fuel tanks **full.**
2. Disconnect the power shaft that transfers torque to the hydraulic pump to powers the concrete mixer, and record the odometer reading.
3. Drive the unit on a predetermined route that consists of roads that have different speed limits, stop signs, traffic control lights, etc, trying to duplicate ordinary conditions. Note the length of the route shall be at least **100 miles.**
4. Return to the point of origin, record the odometer reading and fill the fuel tank to determine quantity used.
5. Load the mixer with material (Rock), which is the number of pounds that would bring the vehicle to the maximum legal load GVW with fuel tanks filled to capacity.
6. Disconnect the power shaft and record the odometer reading.
7. Drive the unit over the exact route as before (empty weight) using the same driver.
8. Return to the point of origin, record the odometer reading and fill the fuel tank to determine the number of gallons used.

Having established and performed the physical test criteria for each type and make of mixer truck in the fleet, the following calculations must be made to determine the number taxable and untaxable gallons as per enclosed example (schedule):

POWER TAKE OFF FUEL CONSUMPTION TEST

Attachment A

EXAMPLE

EXAMPLE OF TEST TO DETERMINE MPGs

	Tested Empty 0 CY	Cubic Yard 1	Cubic Yard 2	Cubic Yard 3	Cubic Yard 4	Cubic Yard 5	Cubic Yard 6	Cubic Yard 7	Tested Loaded 8 CY
*Date	5/1/09								5/2/09
*Unit	#24								#24
*Unit Type	Mixer								Mixer
*Weight	23880								54000
Power Shaft	Disconnect								Disconnect
!Start Full Tank Gals	75								75
*End Fill up Tank (#Gals used)	35								50
Origin	Great Bend								Great Bend
*Start Odometer	81962								82123
Destination	Salina								Salina
*End Odometer	82123								82283
Return	Great Bend	Use this Formula to calculate "rate" of decrease in MPGs per Cubic Yard increase in load							Great Bend
**Miles Driven	161								160
Mpg	4.60	(4.60-3.20)/8	(4.60-3.20)/8	(4.60-3.20)/8	(4.60-3.20)/8	(4.60-3.20)/8	(4.60-3.20)/8	(4.60-3.20)/8	3.20

MPG "rate" of decrease per Cubic Yard	0.175	0.175	0.175	0.175	0.175	0.175	0.175
MPG per cubic Yard per Load	4.43	4.25	4.08	3.90	3.73	3.55	3.38

(4.60-0.175) (4.43-0.175) (4.25-0.175) (4.08-0.175) (3.90-0.175) (3.73-0.175) (3.55-0.175)

Used this Formula to calculate MPGs per Cubic Yard per load

*Mandatory Entry
**Computed
! Tank must be full before every trip

Example to determine Taxable/Untaxable gallons per Vehicle

Date	5/1/09	
Unit #	#24	
!Start Full Tank Gals	Optional	
*Start Location (Origin)	Great Bend	
Start Odometer	85000	
*Destination (s)	Rush Center	
*End Location	Great Bend	
End Odometer	85060	
**Miles Driven	60	
*End Fill up Tank (#Gals)	18	Total used
*Cubic Yards (See chart)	5	5 CY
*CY MPGs (See Chart)	3.73	5 CY
**Fuel Highway	16.11	Taxable
**PTO Fuel (Non Highway)	1.89	Non Taxable

X
2

POWER TAKE OFF FUEL CONSUMPTION SCHEDULE

1st Step

Unit	Date	Empty Weight	Start with Full Tank # of Gallons	Power Shaf From Disconnecte	Origin	Beginning To Odometer Location	Return to Origin	Ending Odometer	Minimum 100 miles	Fill Up # Gallons	Fuel Consumption MPG/Rate
#24	5/13/2009	23880	100	Yes		81962		82063	101	16	6.31

2nd Step

Unit	Date	Registered Legal/Full Weight	Start with Full Tank # of Gallons	Power Shaf From Disconnecte	Origin	Beginning To Odometer Location	Return to Origin	Ending Odometer	Minimum 100 miles	End with Full Tank # Gallons	Fuel Consumption MPG/Rate
#24	5/13/2009	54000	100	Yes		82071		82173	102	24	4.25

Total Miles Driven

X
W

Attachment B

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users

SAFETEA-LU

Section 11144 - PTO Report

SB/SE Research – Philadelphia
Project ID – PHL0019

July 2007

Appendix E Single Unit vehicle PTO Fuel Use

Single Unit Vehicles	PTO Vehicles		PTO rate	PTO Fuel Used	
Body Type	Trucks	Gal/Year	(State Data)	Annual Total	Average Gals/Vehicle
01. Pickup	0	0	0.0%	0	0
02. Minivan	0	0	0.0%	0	0
03. Light van other than minivan	0	0	0.0%	0	0
04. Sport utility	0	0	0.0%	0	0
05. Armored	285	1,834,281	0.0%	0	0
06. Beverage	397	495,610	0.0%	0	0
07. Concrete mixer	77,044	291,583,161	30.2%	87,951,308	1,142
08. Concrete pumper	5,915	17,708,278	45.7%	8,099,158	1,369
09. Crane	17,566	16,863,168	30.9%	5,206,955	296
10. Curtainside	368	503,732	0.0%	0	0
11. Dump	727,038	1,236,354,741	16.3%	201,643,277	277
12. Flatbed, stake, platform, etc.	177,306	220,723,867	0.0%	0	0
13. Low boy	996	1,766,451	0.0%	0	0
14. Pole, logging, pulpwood, or pipe	18,081	74,553,864	20.0%	14,910,773	825
15. Service, utility	87,408	126,709,141	16.5%	20,916,115	239
16. Service, other	26,661	50,908,291	39.9%	20,306,647	762
17. Street sweeper	6,351	8,528,207	20.4%	1,743,500	275
18. Tank, dry bulk	26,057	30,552,622	20.7%	6,334,667	243
19. Tank, liquids or gases	166,654	375,042,621	22.1%	82,888,834	497
20. Tow/Wrecker	127,769	260,924,993	20.3%	52,859,633	414
21. Trash, garbage, or recycling	96,043	470,343,529	29.9%	140,574,499	1,464
22. Vacuum	14,702	37,447,786	37.6%	14,087,936	958
23. Van, basic enclosed	9,267	19,122,783	0.0%	0	0
24. Van, insulated non-refrigerated	491	463,586	0.0%	0	0
25. Van, insulated refrigerated	436	1,895,061	15.0%	284,259	652
26. Van, open top	82,993	45,503,297	27.0%	12,306,134	148
27. Van, step, walk-in, or multistop	1,348	1,366,474	0.0%	0	0
28. Van, other	1,845	5,050,527	10.0%	505,053	274
99. Other not elsewhere classified	675	1,714,992	0.0%	0	0
Total	1,673,695	3,297,961,062	20.3%	670,618,747	401

Attachment C

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Division of the Budget

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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

February 23, 2016

The Honorable Marvin Kleeb, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Kleeb:

SUBJECT: Fiscal Note for HB 2631 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2631 is respectfully submitted to your committee.

HB 2631 would allow owners of ready-mixed concrete vehicles to claim a motor fuel tax refund that is calculated by a method that is detailed by the Department of Revenue or based on the amount of tax levied on 22.0 percent of the fuel consumed by the vehicle.

The Department of Revenue estimates that HB 2631 would decrease motor fuel tax revenues by $186,000 in FY 2017. Because motor fuel taxes are distributed to the State Highway Fund and the Special City and County Highway Fund, the bill is estimated to reduce revenues to these two funds by $123,448 and $62,552, respectively. To formulate this estimate, the Department of Revenue reviewed data on ready-mixed concrete trucks operating in the United States from the 2014 National Ready Mixed Concrete Association's report, which indicates there were approximately 65,292 ready-mixed concrete trucks operating in the United States. Of that total, the Department estimates that 650 trucks, or 1.0 percent, operate in Kansas. The average annual diesel fuel consumption for each ready-mixed concrete truck is approximately 5,000 gallons. The motor fuel tax on diesel is $0.26 per gallon. Based on the 22.0 percent refund of the fuel consumed, the Department estimates the bill would reduce motor fuel taxes by approximately $186,000 in FY 2017 (650 trucks x 5,000 gallons x $0.26 motor fuel tax x 22.0 percent tax refund rate). The Department indicates that the administrative cost to implement the bill would be negligible and could be absorbed within existing resources.

The Kansas Department of Transportation (KDOT) indicates that the bill would reduce state revenues to the State Highway Fund as noted above. KDOT indicates that when the state receives lower State Highway Fund dollars it may be required to make corresponding reductions to planned expenditures for projects funded under the comprehensive transportation plan, known as T-WORKS.

The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill would provide a net reduction in motor fuel tax revenue distributions to the Special City and County Highway Fund that are used in part to finance local street and highway projects. Any fiscal effect associated with HB 2631 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, Department of Revenue
Ben Cleeves, Transportation
Larry Baer, League of Municipalities
Melissa Wangemann, Association of Counties

PTO Refund Calculation

March 7, 2016

Presented by: Kansas Ready Mixed Concrete Association

Concerning: House Bill 2631

Amount Into Motor Fuels Fund:

650 X 5000 X .26 = $845,000

Subtract Refund:

650 X 5000 X 26 X 22% = ($185,900)

Net Remaining in Fund $659,180

Amount Into Motor Fuels Fund:

650 X 5000 X .26 = $845,000

Subtract Refund:

650 X 5000 X 26 X 30.2% = ($255,190)

Net Remaining in Fund $598,810