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Date: January 22, 2018
To: House Committee on Taxation
From: Randy Stookey, SVP and General Counsel, Renew Kansas Association

RE: Neutral Testimony with Concerns on HB 2488, concerning the motor-fuel tax law; amending the definition of special fuels to remove reference to the word “alcohol.”

Chairman Johnson and members of the committee, thank you for the opportunity to comment on House Bill 2488. This neutral testimony, with qualified concerns, is submitted on behalf of Renew Kansas. Renew Kansas (formerly, Kansas Association of Ethanol Processors), is the trade association of the Kansas ethanol processing industry.

K.S.A. 2017 Supp. 79-3401, *et seq.* is known as the “motor-fuel tax law.” Under the act, a tax is assessed on the sale or delivery of all motor-vehicle fuels or special fuels that are used, sold or delivered in the state at the rates set forth in the act. Under K.S.A. 79-34,141 of the act, vehicle fuels are assessed at \$0.26 per gallon on special fuels, and at \$0.24 per gallon on motor-vehicle fuels other than 85% ethanol (E85).

HB 2488 amends K.S.A. 2017 Supp. 79-3401 to change the definition of “special fuels” by removing the word “alcohol.” Currently, the definition of “special fuels” includes: “all combustible liquids suitable for the generation of power for the propulsion of motor vehicles including ... diesel fuel, alcohol and such fuels not defined under the motor vehicle fuels definition, hereinafter referred to as motor-vehicle fuel.”

The definition of “motor-vehicle fuels” in the act includes, among other things, “gasoline” and “gasohol.” K.S.A. 2017 Supp. 79-3401. The act also defines “agricultural ethyl alcohol” as a “motor-vehicle fuel component” which, when blended with gasoline, produces “gasohol.” K.S.A. 79-34,160. Because the act defines “**agricultural ethyl alcohol**” (ethanol) as a “motor-vehicle fuel component,” and defines “**alcohol**” as a “special fuel,” these two terms are not synonymous.

The original intent of the word “alcohol” in the definition of a “special fuel” remains unclear. However, through discussions with the Kansas Department of Revenue (KDOR), it is our understanding that removal of the word “alcohol” from the definition of “special fuels” is not intended to affect the act’s treatment of “agricultural ethyl alcohol” or “ethanol.” As expressed by KDOR, the intent of the bill - removing the term “alcohol” from “special fuels” - is to remove any confusion that ethanol-blended fuel (gasohol) is in fact a “motor-vehicle fuel” that should be assessed a tax rate of \$0.24 per gallon.

For this reason, Renew Kansas appears neutral on HB 2488. However, if the bill were to have any unintended negative effects on the treatment of “agricultural ethyl alcohol” or “ethanol,” then Renew Kansas would stand opposed to the bill.

Thank you for allowing us the opportunity to submit testimony on HB 2488. I will stand for questions at the appropriate time.