

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on February 20, 2002, in Room 519-S of the Capitol.

All members were present except: Senator Goodwin

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: Stephen S. Richards, Secretary, Department of Revenue
Ken Peterson, Kansas Petroleum Council
Tom Palace, Petroleum Marketers and Convenience Store
Association of Kansas

Others attending: See attached list.

The minutes of the February 19, 2002, meeting were approved.

SB 537—Taxation of motor fuels; concerning the point of tax

Stephen S. Richards, Secretary, Kansas Department of Revenue, testified in strong support of **SB 537**. (Attachment 1) He referred to a diagram attached to his written testimony to illustrate the state's current motor fuel taxing structure and the changes the bill makes. He noted that Kansas currently taxes motor fuel at the distributor of first receipt level and explained that the bill would move the point of taxation from the distributor to the supplier implementing what is known nationwide as "Tax at the Rack," which was implemented by the federal government in 1994. He informed the Committee that "Tax at the Rack" has been recognized as the most efficient and effective method to collect motor fuel taxes, and several states have adopted it. He outlined the following benefits which the Department feels are the most significant: (1) Potential increase in collections/revenues, (2) Reduction in fuel tax evasion ("daisy chain" schemes become ineffective), (3) Same point of taxation as the federal government, (4) Enhancement of the Department's fuel tax evasion project, and (5) Reduction in the number of taxpayers responsible for collecting and remitting the state motor fuel tax.

Secretary Richards said that he and his staff presented the proposed legislation to representatives of the industry early last year. He noted that distributors expressed concerns regarding the ability to maintain the float on tax dollars, the loss of handling allowance, and the ability to export product to another state without remitting both states' taxes up front and seeking credit or a refund. He outlined the provisions the Department included in the bill to address each of the concerns. He explained that suppliers hesitated to support deferred payments of the tax by distributors if there was no provision for protecting them from losses. In response to this concern, the Department included provisions under the bonding section which provides indemnity for any loss sustained where the collection of the tax is unsuccessful.

Ken Peterson, Kansas Petroleum Council, testified in opposition to **SB 537**. (Attachment 2) He acknowledged that there are benefits associated with moving the point of tax collection. However, in his opinion, **SB 537** is not the correct method to implement the policy. He pointed out that one of the common characteristics of laws adopted by states which moved the point of fuel tax collection to the terminal is that, in the beginning, there was no law. He noted that the Council's excise tax experts agree that the best way to develop this policy is to start with a clean slate. He contended that moving the point of collection is much more involved than changing the current law as **SB 537** attempts to do. In this regard, he informed the Committee that his office received an industry analysis which raised 22 questions about the bill. In his opinion, the most glaring problem with the bill is that it may not accomplish its intended purpose. In conclusion, Mr. Peterson urged the Committee to take no action on the bill and, instead, direct that the process

CONTINUATION SHEET

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start anew with a clean slate as the issue is complicated and should not be rushed through the legislative process.

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas (PMCA), testified in opposition to **SB 537**. (Attachment 3) He commented that the industry was perplexed as to why a major change in how the motor the fuel excise tax is collected and paid to the Department of Revenue was considered. He noted that, to date, the industry has not received any statistical data which indicates tax evasion exists or warrants the move requested by the Department. In this regard, he pointed out that, after a 1995 Post Audit report, the Department initiated a fuel tax evasion program that includes reporting requirements for both the petroleum marketers and retailers that sell and acquire fuel. He emphasized that moving the point of taxation is a very complex issue which needs to be reviewed extensively. In his opinion, rushing the issue through this legislative session would be a mistake. He suggested that the Department and the industry come together during the coming summer months to craft legislation which is agreeable to all involved.

There being no others wishing to testify, the hearing on **SB 537** was closed.

Senator Corbin opened a discussion on three previously heard bills, **SB 413** concerning setoff of taxpayer refunds against liabilities, **SB 414** concerning the addition of a penalty provision regarding sand and gravel royalties to the taxing statutes, and **SB 553** concerning the submission of a report on land devoted to agricultural use valuation procedures.

Don Hayward, Revisor of Statutes Office, suggested that **SB 413** be technically amended on page 1, line 31, by striking "Provided, That."

Senator Praeger moved that **SB 413** be technically amended as suggested by Mr. Hayward and that it be recommended favorably for passage as amended, seconded by Senator Taddiken. The motion carried.

Senator Jenkins moved that **SB 414** be technically amended on page 1, line 34, by striking "(a)(1)," and that it be recommended favorably for passage as amended, seconded by Senator Praeger. The motion carried.

Senator Lee moved that **SB 553** be technically amended on line 18 by striking "have been" and inserting "were" and on line 19 by striking "during the next preceding eight years" and inserting "within the past ten years, when the change was made," seconded by Senator Clark. The motion carried.

Senator Lee moved to recommend **SB 553** favorably for passage as amended, seconded by Senator Clark. The motion carried.

The meeting was adjourned at 11:25 a.m.

The next meeting is scheduled for February 21, 2002.