



January 19, 2021

Memorandum:

To: Senate Agriculture and Natural Resources Committee
From: Thomas M. Palace Executive Director Fuel True
Re: Testimony in Support of SB 27

Mr. Chairman and Members of the Senate Agriculture and Natural Resources Committee:

My name is Tom Palace. I am the Executive Director of Fuel True, formally known as the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 250 independent Kansas petroleum distribution companies and convenience store retailers throughout Kansas.

We stand in support of SB 27.

This bill extends the sunset provisions in the Underground Storage Tank (UST) Act and increases reimbursement to qualifying facility owners. More specifically the changes extend sunset dates for Underground Storage Tank Trust, the UST Property Redevelopment Trust Fund for removal of Abandoned USTs and the UST Property Redevelopment Trust Fund for replacement of single wall to double wall USTs. The bill also makes it clear that the fee funds collected shall be deposited into the storage tank fee fund.

SB 27:

- Extends the Kansas Underground and Aboveground Storage Tank Trust Fund that will sunset on July 1, 2024. The bill extends the fund 10 years to 2034.
- Increases the fund liability maximum from \$1,000,000 to \$2,000,000.
- Extends the sunset provision for the Redevelopment Fund from 2021 to 2030 for tank upgrades.
- Incentivizes Underground Storage Tank Owners to upgrade single wall USTs to double wall USTs using the Redevelopment fund. Double wall tank systems are a requirement established by the EPA and put in statute in accordance with the 2005 Federal Energy and Policy Act. A Federal Mandate.
- Incentive is increased from \$50,000 – \$100,000. Double wall tank systems are a requirement established by the EPA and put in statute in accordance with the 2005 Federal Energy and Policy Act.
- New sites would not be eligible for this money...only replacement of existing tanks eligible.
- The fund would reimburse facility owners up to \$3 million annually for tank upgrades.
- For tank upgrades there is retroactive clause allowing facility owners that qualified for the reimbursement to apply for an additional funds back to July 2020. This was due to the shortened 2020 legislative session.
- The bill extends the abandon tank Redevelopment Fund from 2024 to 2032, allows for funding from the fund to pull abandoned USTs.
- Provides for permanent closure of USTs.
- Extends the sunset for the UST redevelopment fund compensation advisory board 2024-2032.



Funding for the UST/AST Trust Fund

- The Trust Funds are financed from a \$.01 fee placed on each gallon of petroleum (except aviation fuel) product manufactured in or imported into the state. The fee goes on and off based on the amount held in the trust fund. The fee is currently in place.
- The number of existing and potential sites in the KDHE storage tank programs are evaluated regularly to ensure current and future spending is available to meet KDHE's regulatory mandates.
- The sunset date in this statute has been extended in previous Statute amendments, including 2001 and 2012. KDHE can confidently predict a need to extend the program through at least 2034.
- A higher maximum cap for reimbursement of clean-up costs is needed because the installation, implementation and maintenance of remedial systems cost significantly more than it did 20 years ago.
- Sites which were easier to clean up have been addressed. Of the sites that remain, much of the soil and groundwater contamination is in complex geology, which increases the overall cost of a site cleanup.
- The current number of sites that will be affected by the \$1M increase is less than 10.

Information About the UST/AST Program

The proposed amendments to the Storage Tank Act extend the life of the underground and aboveground funds. The UST fund was developed to satisfy the pollution liability insurance requirements established by the federal Environmental Protection Agency (EPA) regulations affecting underground storage tanks (USTs). The provisions for the third-party insurance coverage were assigned to a program within the Insurance Department. The act was amended in 1992 to include a reimbursement fund for aboveground tanks.

In addition to satisfying insurance requirements, the funds provide real financial relief to owners of petroleum tanks for the cost of corrective action at their facilities. The funds reimburse applicants for approved costs of remedial action after payment of the appropriate deductible. Without this mechanism to comply with the insurance requirements, many UST owners would be forced out of business.

Since the inception of the fund, owners of 1,115 petroleum storage tank facilities have participated in the underground and aboveground trust fund. An average of 25 new facilities apply for assistance each year. Currently, many of the facility owners continue to rely on these reimbursement funds to pay for ongoing cleanups.

The programs operate within the established funding mechanism and have facilitated a good working relationship between the state regulatory agency and the petroleum marketers. The programs have been a success due to the very well thought out design of the statutes. The credit for that success goes to those who had the forethought to include adequate funding and provisions for cost control which allowed the agency to operate well within the established budget.



The 2005 Federal Energy and Policy Act requires UST owners to protect groundwater from releases of regulated substances...in our case releases from UST's. Currently, KDHE requires UST owners to upgrade single wall tank systems to double wall tank systems if more than 51% of the tank is damaged and needs repair. SB 27 potentially could speed that process up if UST owners can apply and receive the reimbursement provided in this bill.

Upgrading USTs are an expensive endeavor with costs that can reach \$300,000 - \$400,000 per site and NO return on investment. UST owners have no way to recoup costs associated tank upgrades.

- Over 25 facilities have participated in this program since it began in 2015 resulting in the removal of 84 old USTs and replacing them with 86 new, double-wall UST systems.

Fuel True has worked closely with the KDHE on many issues related to the Underground Storage Tank program that was established in 1989. Our working relationship requires both KDHE and Fuel True to be flexible when a federal mandate is passed down from the EPA.

We believe that Kansas has one of the best UST/AST programs in the country and we thank KDHE for their administration of this program.

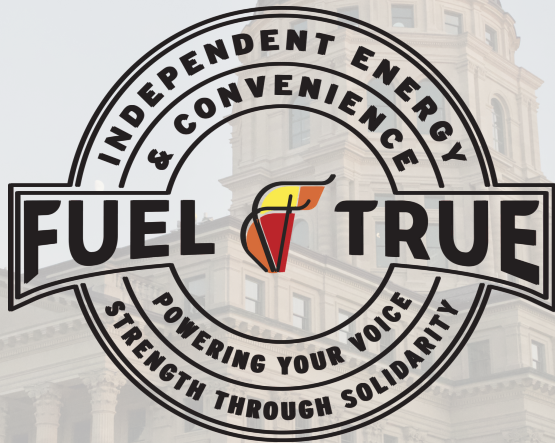
Fuel True enjoys a close working relationship with KDHE and we both have the same goal in mind...keeping Kansas environmentally safe.

We ask the committee for your support to pass SB 27.

Thank You.

FUEL TRUE

INDEPENDENT ENERGY AND CONVENIENCE



Fuel True is a membership based, education focused, advocacy association for energy marketers and convenience store owners & operators across Kansas. Core members include fuel distributors, retailers, and convenience store operators. **Fuel True** is the connection between fuel distribution and convenience store owners and government at all levels, including legislative bodies, the DOT, FDA, EPA,

KDOR, and KDHE for example. **Fuel True** is likewise a one-stop information portal. Through our website, publications, webinars, events, and helpful staff, Kansas can count on **Fuel True** for critical information like economic factors and trends, Covid-19 and pandemic-related updates, employment practices, edifying networking connections and contact info, and so much more.

Fuel True: Independent Energy and Convenience is the fourth name this association has had since its inception in 1914. Represented by a staff of three and a board of 20, **Fuel True** will continue over the next century to develop its base of oil jobbers, energy marketers, fuel distributors, and the convenience store owners and operators who belong to our family. Over more than a century, names and technology have changed, but **Fuel True's** focus has remained the same; Opportunity, strength in numbers, education, friendship to steward resources, manage regulatory impact, and bringing about continuous innovation and success.

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FUEL TRUE COMMITTEES

We operate a committee based approach in order to streamline the process of incorporating member input into our decision making process. These committees improve the decision making process by broadening the knowledge base utilized by leadership, and improve transparency of the association by increasing the number of members, and professional sectors, actively participating in the work of Fuel True.

Fuel True committees are open to any active member in good standing, and cover the following topics:

- Motor Fuels
- Transportation
- C-Store & Retail
- Lubes
- Member Engagement

THE FUEL TRUE FAMILY

We talk about 'friendship' and 'family' because these are the traits that help Independent Energy and Convenience make a difference in members' local communities and in the Kansas economy as a whole. Fuel True organizes multiple projects to strengthen friendships and "show off" our family to our customers and neighbors. They include:

- The Pinnacle Scholarship
- Give a Gallon Holiday Program
- Endorsed Company Program
- Tank Management Services



OUR GOALS

Fuel True is the oldest oil jobbers association in the USA. Our longevity is thanks to our passion for progress, commitment to the future of the independent energy community, and personalized service by our staff. To ensure that our members remain productive members of the free enterprise system, and good and faithful stewards of the environment, we commit to the following communal goals:

- To heighten business acumen through education.
- To provide industry representation to seek favorable legislation.
- To encourage diversity of business operations in order to promote financial security.
- To promote the highest ethical business standards.
- To present a positive public image of the independent energy marketer.

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