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House Committee on Taxation

Testimony of The Kansas Department of Revenue in Support of House Bill 2488

by Michael Hale

Chairman Johnson and Members of the Committee:

The Department of Revenue respectfully submits the following testimony to the Committee in support of House Bill 2488.

This bill removes alcohol from definition of "special fuel" in K.S.A. 79-3401(s), and inserts alcohol when blended or mixed with gasoline or other inflammable liquids burned in motor-vehicles in the definition of "motor-vehicle fuels" in K.S.A. 79-3401(l).

This bill is clarification of current practice. Many years ago, alcohol was, for reasons the Department is unaware, inserted in the definition of special fuels (diesel). However, the diesel engine cannot support the burning of alcohol. It is just too hot. So, to eliminate any confusion, alcohol should be stricken from the definition of special fuels.

Special fuel is taxed at the rate of \$.26 per gallon and motor-vehicle fuel other than E85 is taxed at \$.24 per gallon. Since alcohol is blended with motor-vehicle fuel (gasoline) and not special fuel (diesel), we pick the tax on alcohol up under the gasoline tax.

Initially it was believed that "alcohol" was already a part of the existing definition of "motor-vehicle fuels" in K.S.A. 79-3410(l) within the word "gasohol" (see below). So, the Department didn't believe it needed to add the word "alcohol" anywhere else to insure that we are capturing the tax on both gasoline without an alcohol blend and gasoline with an alcohol blend. And, ethyl alcohol (ethanol) is within the definition in the 1995 United States department of commerce, national institute of standards and technology handbook (see below).

K.S.A. 79-3410 (l) "motor-vehicle fuels" means gasoline, casinghead gasoline, natural gasoline, drip gasoline, aviation gasoline, **gasohol**, gasoline-oxygenate blend and any other spark-ignition **motor fuel** as defined by the 1995 United States department of commerce, national institute of standards and technology handbook 130 issued December of 1994, and as may subsequently be defined in rules and regulations which the director may adopt pursuant to K.S.A. 79-3419, and amendments thereto. (Emphasis added.)

Moreover, the definition of "liquid fuels" or "motor fuels" in K.S.A. 79-3410(i) means **any** inflammable liquid by whatever name such liquid shall be known or sold, which is used, or practically or commercially usable, either alone **or when mixed or combined** in an internal-combustion engine for the generation of power. (Emphasis added.) This too, when read in relation to "motor-vehicle fuels," seemed to capture alcohol. It is an inflammable liquid when mixed or combined (in this case with gasoline) for the generation of power.

That said, it was been determined, for clarity's sake, that a balloon amendment should be added to "motor-vehicle fuels" that reads as follows: "motor-vehicle fuels" means gasoline, casinghead gasoline, natural gasoline, drip gasoline, aviation gasoline, gasohol, gasoline-oxygenate blend, *any of the foregoing when blended or mixed with alcohol...*"