



February 5, 2020

Memorandum:

To: Senate Agriculture and Natural Resources Committee  
From: Thomas M. Palace Executive Director PMCA of Kansas  
Re: Testimony Supporting SB 287

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

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store retailers throughout Kansas.

We stand before you as a proponent of SB 287.

This bill:

- An owner or operator of an Underground Storage Tank is entitled to reimbursement of reasonable costs of corrective action upgrading single wall UST to double wall UST.
- This current program was initiated in 2015 and is scheduled to sunset in 2020.
- This bill extends the sunset provision from 2020-2030.
- The Environmental Trust Fund fee of \$.01 will be used to fund the UST, AST, Redevelopment Fund.
- Incentivizes Underground Storage Tank Owners to upgrade single wall UST's to double wall UST's 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.
- Incentive is increased from \$50,000 – \$100,000.
- New sites would not be eligible for this money...only replacement of existing tanks eligible.
- The fund would pay out up to \$3 million annually.
- Replacement of single wall tanks under this program leads to quicker identification of potential contamination and removal of equipment more likely to cause future releases.
- Retroactive to 2005 (When the Federal Energy Bill was passed Congress) for facilities that replaced single wall tanks.

This program is established for eligible tank owners who want to remove single-wall UST's and replace them with double-wall UST systems at their active facilities. The bill extends the sunset date with the intent to encourage more participation in this program by offering an increase in the maximum amount of funds that can be reimbursed per facility. Application must be made to the State and pre-approved for specific cost reimbursement. The average age of UST's in Kansas exceeds 25 years, and this age is greater than the national average.

**Petroleum Marketers and Convenience Store Association of Kansas**

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

PMCA has worked closely with the Kansas Department of Health and Environment on many issues related to the Underground Storage Tank (UST) program that was established in 1989. Our working relationship requires both KDHE and PMCA to be flexible when a federal mandate is passed down from the EPA.

The 2005 Federal Energy and Policy Act require 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 287 potentially could speed that process up if UST owners can apply and receive the reimbursement provided in this bill.

Upgrading UST's 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.

In closing, the committee should be aware that the environmental trust fund that KDHE administrates is probably one of the best programs in the United States. We applaud the efforts of Leo Henning, Bob Jurgens and Sharon Morgan for their supervision over the Bureau of Environmental Remediation.

Thank you

**Replacement of single-wall USTs with UST systems with secondary containment.** The fund allows for reimbursement of up to \$50,000 per facility to eligible owners who replace a single-wall UST system with a UST system that has secondary containment. The reimbursement program ends June 1, 2020 and is retroactive to August 8, 2005. A maximum of \$3,000,000 may be reimbursed per state fiscal year subject to availability of money in the UST redevelopment fund.

The Kansas Storage Tank Act, KSA 65-34, 100 *et. seq.* defines secondary containment of a UST system as one that has an inner and outer barrier with an interstitial space that is monitored for a release of regulated substances from the underground storage tank and piping, and includes containment underneath the dispenser system and at the submersible pumps of the UST. The containment system must be designed to prevent leaks from reaching soil or groundwater. The containment must be: (1) liquid tight on its sides, bottom and at any penetrations; (2) compatible with the substance conveyed by the piping; and (3) allow for visual inspection and access to the components in the containment or be monitored for a release of regulated substances from dispenser and piping.

A UST owner is eligible for reimbursement if 1) the UST system is used for the storage of petroleum products for resale and is subject to the environmental assurance fee (K.S.A. 65-34,117), 2) owner has been approved by the secretary and is not the federal government, 3) owner replaces all components of a single-wall UST system with a secondary containment system after August 8, 2005 and before June 30, 2020, 4) owner is in substantial compliance with the Kansas storage tank act, 5) owner provides 30-day notice and access to the department to perform an environmental assessment of the site, and if petroleum contamination is found or known to exist during replacement of the single-wall tank system the owner applies to the underground fund to perform corrective action to address the contamination and 6) the UST was registered with the department on or after May 1, 1981.

For replacements undertaken after July 1, 2015, the storage tank owner must submit an application for reimbursement on forms supplied by the department and receive approval from the secretary of the proposed secondary containment system plan. Upon approval of the plan, the owner shall obtain at least three bids from persons qualified to perform the secondary containment system installation. The requirement for three bids may be waived if the owner has made a good faith effort, but has not been able to obtain three bids from qualified bidders.

For replacements undertaken before July 1, 2015, the owner must submit an application for reimbursement on forms supplied by the department with proof of costs and receive approval from the secretary. The secretary may, in the secretary's discretion, determine those costs which are allowable as secondary containment system installation.