



February 11, 2021

Memorandum:

To: House Agriculture and 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 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. 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 UST's.
- Provides for permanent closure of UST's.
- 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 Storage Tank Fee Fund subsidizes KDHE's administration of the UST/AST program, which provides immense resources and services back to the industry from fees collected from the industry. Moneys from the fund are used to conduct outreach and education, aid in compliance with state and federal laws, and improve data management systems. The proposed change to fee allocation directly into the fund will ensure that KDHE is sufficiently equipped to maintain and improve these services directly benefitting UST and AST owners.
- 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 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 27 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.

- 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.

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