



Testimony on Senate Bill No. 406
Kansas UST Property Redevelopment Fund
An Act amending the Kansas Storage Tank Act
to
House Energy and Utilities Committee
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Chairperson Holmes and members of the House Energy and Utilities Committee, I am pleased to appear before you today to discuss Senate Bill No. 406, An ACT relating to the Kansas storage tank act; concerning a fund for removal of underground storage tanks; and extension of the UST and AST funds.

The department supports this amendment to the Storage Tank Act to provide a reimbursement fund to assist property owners where abandoned underground storage tanks are present. Underground storage tanks (USTs) have been used for decades to store the petroleum products at gasoline stations and many other locations. The department estimates that approximately 900 USTs in Kansas have been taken out of service without permanent closure over the last decade because of shrinking economies in rural communities and the recession. Many other properties contain abandoned USTs where gasoline stations closed years ago without proper tank closure. The environmental liabilities of these storage tanks to the property owners and the financial risks to lenders create significant barriers to reuse of the properties.

The Kansas Essential Fuels Supply (EFS) Trust Fund provided aboveground storage tank owners with financial assistance to remove aboveground tanks and make upgrades to their facilities in order to comply with the recent federal requirements. The EFS Trust Fund program sunsets June 30, 2012. The proposed UST Property Redevelopment Trust Fund would take the place of the EFS Trust Fund and provide property owners where USTs have been abandoned with a similar opportunity to obtain assistance with the removal of the abandoned USTs.

UST Property Redevelopment fund applicants would be required to obtain preapproval of costs so money will be available when the work is completed. The preapproval will allow for application approval, review of the bids and cost to be approved so that timely payment can be made. Property owners who have used the tanks and are financially responsible for proper closure are not eligible for reimbursement by the fund.

The proposed bill also extends the life of the underground and aboveground reimbursement funds which are to be abolished on July 1, 2014. 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, included in the federal regulations, were assigned to a program within the Kansas 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

corrective action after payment of the appropriate deductible. Without this mechanism to comply with the insurance and corrective action requirements, many UST owners would be forced out of business.

Since the inception of the reimbursement funds in 1990 and 1992, owners of 2412 petroleum storage tank facilities have participated in the underground and aboveground funds. An average of 30 new facilities apply for assistance each year. Currently more than 1200 facility owners continue to rely on these reimbursement funds to pay for ongoing corrective action at their facilities.

The UST and AST funds operate within the established funding mechanism and have facilitated a good working relationship between KDHE and the storage tank owners due to the adequate funding and provisions for cost control.

The funding for the AST, UST and the proposed Property Redevelopment funds comes from the Environmental Assurance Fee (EAF) which collects a penny per gallon on fuel in the state, resulting in funding of about \$1,700,000 per month. To satisfy the federal requirements related to the financial solvency of the UST fund, the EAF must be deposited into the UST fund first and only the excess funding can be used by the AST Reimbursement and UST Removal funds. During the periods when the EAF is not needed by the UST or AST funds, adequate funding is available to assist a hundred or more property owners with the cost of tank removal each year.

I thank you for the opportunity to appear before the House Energy and Utilities Committee and will gladly stand for questions the committee may have on this topic.