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To: Chairperson Eugene Hahn
Members of the Assembly Committee on Committee on Biofuels and Sustainable Energy

From: R.J. Pirlot, Director of Legislative Relations

Date: June 20, 2007

Subject: **Opposition to Assembly Bill 378 provisions creating new motor vehicle fuel tax exemptions.**

Assembly Bill 378 (AB 378), in part, creates income and franchise tax credits for "the installation of fuel station equipment that dispenses fuel that, generally, consists of at least 85 percent ethanol or 20 percent biodiesel fuel." AB 378 also "provides that the motor vehicle fuel tax does not apply to ethanol contained in motor vehicle fuel that consists of at least 85 percent ethanol or to biomass or any other renewable resource contained in biodiesel fuel that contains at least 20 percent biomass or other renewable resource." *Analysis by the Legislative Reference Bureau.*

Wisconsin Manufacturers & Commerce (WMC) lauds Rep. Wood and Sen. Kreitlow, the authors of AB 378, for their leadership in attempting to improve energy efficiency, promote home-grown sources of energy and for their support of Wisconsin's economy. However, WMC is concerned AB 378 provisions creating new fuel tax exemptions would jeopardize the continued health of the Transportation Fund.

WMC opposes AB 378 provisions which would create new motor vehicle fuel tax exemptions. Such exemptions would reduce revenues sorely needed for transportation infrastructure capacity expansion and maintenance. As a heavy-manufacturing industry state, Wisconsin faces many challenges, including several with respect to transportation services and, ultimately, our state's long-term economic health. Strong, robust multimodal transportation service networks help keep Wisconsin stores open, factories running, and payrolls being made. Economic development and transportation infrastructure are closely interrelated. A healthy, well-maintained transportation network is fundamental to ensuring Wisconsin manufacturers and other businesses have access to certain and reliable shipping and receiving services, and helps businesses meet such needs in the most efficient and cost-effective manner possible.

WMC respectfully requests that *if* a fuel tax exemption be created, the exemption be sunset and the Transportation Fund be held harmless. WMC understands the desire to promote home-grown sources of energy and the wish to help new industries. While our preference would be the ethanol portion of E85 and biomass products in biodiesel are subject to the motor vehicle fuel tax, if an exemption is created that it be limited. If a fuel tax exemption is created, WMC respectfully suggests that the exemption be subject to a statutory sunset. Further, for the duration of the exemption, that the Transportation Fund be held harmless, with reduced revenues made up by the General Fund. According to the Legislative Fiscal Bureau, assuming E85 and biodiesel consumption doubles during the

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biennium, Transportation Fund revenues would be reduced by approximately $2 million, annually.

The future of adequate transportation funding in Wisconsin is in serious jeopardy. Over the last four years, over $1 billion in gas tax dollars have been transferred from the Transportation Fund to the General Fund, dollars which had been raised to pay for maintaining and improving Wisconsin's transportation network. To partially mask the effect of these budget transfers, borrowing to pay for transportation projects has dramatically soared. Debt service is projected to eat up nearly 11 percent of Transportation Fund revenues in fiscal year 2006-07 and over 15 percent in ten years, up from just 6.5 percent in fiscal year 1995-96, meaning less money will be available for future transportation infrastructure maintenance and upgrades. In addition, the Legislative Fiscal Bureau has projected that in order to keep pace with the state's long-term transportation infrastructure plan, including reconstruction of the Southeastern Wisconsin freeway system and upgrading Highway 41, up to nearly $700 million in additional *annual* funding is needed for the Transportation Fund.

In the proposed 2007-09 budget, $165 million would be shifted from the Transportation Fund and spent elsewhere. The proposed budget would change 16 existing appropriations from the General Fund to the Transportation Fund. For example, $55 million in pupil transportation aids would be paid for by the Transportation Fund, instead of the General Fund. In addition, the proposed 2007-09 budget would create two new Transportation Fund appropriations, one to spend $70 million out of the Transportation Fund to pay some of the debt service on bonds issued over the last two budgets to backfill earlier transfers; the Legislature and Governor had agreed the General Fund would pay this debt service because the money had been taken to support General Fund spending. The proposed 2007-09 budget undoes that agreement.

The Wisconsin Department of Transportation, in its 2007-09 state budget request, noted "significant transportation challenges in the next biennium," including $182 million needed for work on I-94 from Milwaukee to the Illinois border, $24 million in preliminary costs associated with reconstruction of the Zoo Interchange in Milwaukee, $67 million in highway maintenance costs, and $27 million for inflationary increases for local aid programs. In order to ensure Wisconsin businesses have continued access to a reliable, robust transportation network, Wisconsin elected officials are respectfully encouraged to identify *new* sources of Transportation Fund revenue, in particular, working to diversify revenue sources used for road building and maintenance; restore and respect the integrity of the Transportation Fund, using Transportation Fund revenues only for infrastructure maintenance and upgrades; and not whittle away at existing Transportation Fund revenues.

WMC respectfully requests you oppose the provisions of AB 378 which would create new motor vehicle fuel tax exemptions or, at least, the exemptions be subject to a statutory sunset and the Transportation Fund be held harmless.

Attachment

Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 10, 2007

TO: Representative Jeffrey Wood
Room 21 North, State Capitol

FROM: Al Runde, Fiscal Analyst

SUBJECT: Updated Information Regarding E85 and Biodiesel State Motor Vehicle Fuel Tax Exemption

Earlier this year, I provided your office information on the fiscal effect of exempting the ethanol portion of E85 gasoline and biomass products in motor vehicle fuel (biodiesel) from the state's 30.9 cents per gallon motor vehicle fuel excise tax. Since that time, we have received information on E85 consumption in Wisconsin for 2006. This memorandum reflects those updated E85 consumption amounts.

According to the Wisconsin Office of Energy Independence, 2.7 million gallons of the ethanol portion of E85 fuel were sold in Wisconsin in 2006, compared to 2005, when 723,000 gallons were sold. In addition, an estimated 600,000 gallons of the biomass portion of biodiesel will be consumed in Wisconsin in 2006-07, compared to 2005-06, when an estimated 275,000 gallons were sold. Both of these products have experienced significant annual percentage growth in consumption in the state in recent years. This makes it difficult to project the reduction in motor vehicle fuel tax revenues that would occur if these fuels were exempted from the state's motor vehicle fuel tax. However, assuming consumption of E85 and biodiesel would double during the biennium and reach 6.6 million gallons annually, exempting these fuels from the motor vehicle fuel tax would reduce revenues to the transportation fund by $2,039,000 annually.

I hope this information is helpful. Please contact me if you have any further questions.

AR/bh

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"Connecting Wisconsin to the World"

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WTBA Testimony

Assembly Committee on Biofuels and Sustainable Energy

Public Hearing – AB 378

Tom Walker, Director of Government Affairs
Wisconsin Transportation Builders Association

June 20, 2007

Good afternoon, Chairman Hahn and members of the Committee. Thank you for the opportunity to testify on AB-378 today.

WTBA is a statewide organization of more than 260 contractors, consultants, and associated businesses. Our members design, build, rehabilitate, improve, reconstruct, expand and modernize every form of transportation infrastructure, including state and local roads and bridges, airports, railroads, and bicycle and pedestrian infrastructure. Most of our contracting members are multi-generational Wisconsin companies that employ numerous workers and pay family supporting wages and benefits.

I should also note that most of members have far less work and far fewer workers this year, as the combination of construction inflation and the repeal of indexing have sapped the buying power of the program, forced the delay of almost 250 state rehabilitation projects, and is resulting in a deteriorating system, that is compromising motorist safety and our economic competitiveness.

I am here today to testify in opposition to one section of AB-378, the one providing fuel tax exemptions.

But first, I want to complement this committee for its leadership and vision. WTBA shares your goals to improve energy efficiency, reduce greenhouse emissions, cut our imports of oil and gas, promote Wisconsin's agricultural economy, and improve our national balance of trade. These are thing we <u>must</u> do. And Wisconsin is well positioned to be a national leader in biofuels.

However, it is equally true that our state highways and local roads will continue to see travel growth as the economy expands. As one Republican member of the Joint Finance Committee wisely noted three weeks ago, Wisconsin cannot afford to be a "cul-de-sac" along the global economy.

There are three major ironies in this bill.

First, the tax credits proposed to be provided to install E-85 pumps at stations anticipate a future where E-85 plays a significant role. That means that the user of a gallon of E-85 will pay only 4.6 cents per gallon in fuel taxes. The more successful Wisconsin is, the more fuel tax revenues will decline. In theory, the exemption could be repealed, but what legislator will want to vote then to increase the cost of E-85?

I would argue in fact, that even more tax credits should be made available to buy down the cost of more of these separate pumps, to make a real difference in market penetration.

Second, these fuel tax exemptions will set up a very counterproductive fight between the transportation lobby and the renewable fuels lobby, in which everyone may lose. For 25 years, this state flirted with state fuel tax exemptions for ethanol motor fuel. All failed, and rightfully so.

The same dynamic was occurring in Washington, where the transportation community fought to end the ethanol motor fuel tax subsidy, while the renewable fuels association fought to

expand it, and federal support for ethanol production and use exploded. That stalemate served no one.

So the Renewable Fuels Industry and WTBA formed a partnership, and pushed our respective national organizations to solve the problem once and for all. The solution approved by Congress a number of years ago shifted the cost of the 51 cent per gallon ethanol fuel tax exemption from the Highway Trust Fund to the General Fund. And voila, as a result, the opposition of the transportation community to federal support of expanded ethanol use immediately evaporated. We do not need to reignite that in Wisconsin.

It is important to note that the federal government is taking a strong lead in promoting increased ethanol use.

In 2004, Congress passed the Jobs Creation Act of 2004. This created the Volumetric Excise Tax Credit for ethanol and renewable diesel at 50 cents or $1 per gallon depending on the type of agricultural ingredients employed. According to the website for the national Renewable Fuels Assocaition, VEETC "Eliminates the waste, fraud and abuse of the excise tax collection system, which means that 18.4 cents per gallon of each gallon of ethanol-blende fuel will be remitted to the U.S. Treasury", and deposited in the Highway Trust Fund, saving $3 billion initially for roads and transit.

I might note that collecting fuel taxes on the ethanol content of E-85 and E-10 will be a huge challenge at the least.

In 2005, Congress passed the Energy Policy Act of 2005. This imposes a national renewable fuels standard that will double the use of ethanol and biodiesel by 2012.

In addition, Congress is now working on an energy bill that would among other things, provide tax credits of $1 per gallon for cellulostic ethanol, even more for biodiesel, while considering much higher mandates for renewable fuel use in the future.

Please note that **NONE** of the extensive, growing federal inducements for the production and use of renewable fuels envision an exemption form the federal fuel tax, in recognition of the large national transportation needs America is facing.

The third irony in this bill is that at the very time this committee is meeting, each caucus is busy working on partial solutions to the transportation funding crisis Wisconsin is facing. Does it really make sense to put in place at the same time new subsidies for certain biofuels that I suspect every member of this committee hopes will grow, and grow robustly.

Wisconsin's future is a variety of fuels and a variety of engine technologies. The one constant should be that every driver pays an equal share for each mile he or she drives, regardless of the fuel used or the engine technology employed. Anything less will threaten our transportation system.

Thank you for the opportunity to testify.

I would be pleased to answer any questions.

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To: Members of the Assembly Committee on Biofuels and Sustainable Energy
From: Rep. Jeff Wood
Date: June 20, 2007
Re: Testimony for AB 378, The Energy Independence Act

Good morning Chairman Hahn and Members of the Committee, and thank you for holding a hearing on Assembly Bill 378, which I refer to as the Energy Independence Act.

The dangers of high energy prices and a reliance on foreign oil have prompted the state and nation to seek to increase our energy efficiency and find new sources of clean, domestic renewable fuels. The legislature has responded by passing renewable energy goals and proposing increased standards regarding the impact our energy usage has on the environment. These are laudable goals, and certainly a large piece of the energy puzzle we must put together.

Now that we have created goals, we must create a means to achieve those goals. I am looking to create the means through the Energy Independence Act, which will serve as another important piece of the energy puzzle.

As a comprehensive energy reform bill, the Energy Independence Act will benefit our environment, improve our economy and increase our national security by:

- Creating state incentives similar to federal incentives for the use of energy efficient technologies and products in home and commercial building construction;
- Creating incentives for the purchase of equipment used to generate electricity from renewable resources;
- Creating incentives for the research and development of technologies that produce electricity from renewable resources;
- Creating an incentive to encourage the installation of an E85 or B20 pump at gas stations across the state;
- Removing the imposition of tax on the ethanol portion of fuel that contains at least 85% ethanol and the biomass portion of biodiesel that contains at least 20% biomass;
- Allowing Angel Investment credits to be available for the construction of power plants that derive energy from a renewable resource.

Thank you for the opportunity to speak on AB 378 today. I would be happy to answer any questions you may have at this time.

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Jim Doyle
Governor

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Secretary of Revenue

Assembly Biofuels and Sustainable Energy Committee, 10 am, Wed. June 20, 2007

AB 378 – Income and Franchise Tax Credits for Energy Efficient Buildings (Representative Wood)

Description of Current Law and Proposed Change

- The bill creates seven nonrefundable energy credits. They are based on the amount paid in the taxable year for any of the following: (a) equipment that generates electricity from solar energy, wind energy, or agricultural waste, (b) research and development related to designing and manufacturing equipment that generates electricity from solar energy, wind energy, garbage, or agricultural or organic waste, (c) the construction of an energy efficient commercial building, (d) the installation of fuel station equipment that dispenses fuel that, generally, consists of at least 85% ethanol or 20% biodiesel fuel, (e) building materials used by a contractor to construct an energy efficient home, and (f) energy efficient equipment and products that the person installs in his or her principal residence. Unused credits may be carried over and offset against tax for up to 15 years.

- In addition, the bill provides that a business engaged in the construction of a power production plant that derives energy from a renewable resource may be certified to receive angel investments.

- Finally, the bill provides that the motor vehicle fuel tax does not apply to ethanol contained in motor vehicle fuel that consists of at least 85% ethanol or to biomass or any other renewable resource contained in biodiesel fuel that contains at least 20% biomass or other renewable resource.

Fairness/Tax Equity

- The bill provides many incentives for alternative energy research and development, and energy conservation in construction and equipment. As a result, the bill could foster more energy conscious behavior by businesses and individuals and could contribute to a more sustainable environment.

- However, market forces would dictate that businesses, builders and consumers make energy-conscious choices in the face of rising energy prices. Thus, these credits could reward behavior that would occur, in large part, without any additional incentives paid by tax dollars.

- Several of the proposed credits appear difficult to verify the true extent of energy conservation. This could create potential for abuse in credit claims.

Impact on Economic Development

- The bill could foster alternative technologies and the production of energy efficient building materials and equipment.

Administrative Impact/Fiscal Effect

- Data are not available to estimate the cost of several credits created under the bill. However, some provisions of the bill can be estimated, and the revenue loss that would result from those provisions is estimated to be at least $5.2 million GPR in FY08 and $11.7 GPR million in FY09. In addition, the bill would result in an estimated loss of $1.25 million SEG (Transportation Fund) in FY08 and $1.7 million SEG in FY09. Additional GPR revenue loss from the provisions of the bill that cannot be estimated could potentially be as large or larger than those that can be estimated.

- The department would incur one time costs of $81,000 due to form revisions and programming changes.

The department has the following technical concerns related to the bill:

- The imposition of annual dollar limitation on several credits (alternative energy sources credit, the research facilities and equipment credits, and clean fuel fueling station credit) makes these credits difficult to administer and could make it frustrating for taxpayers to comply with the bill. It appears that the intent is to allow some credit to all taxpayers who apply and have qualifying expenses, rather than just to the first taxpayers who apply for credits before the limits are reached. Given the different filing schedules of tax filers and the ability to claim a credit retroactively, the department will be unable to monitor when the dollar limits are reached for a given tax year.

- Clarification is needed regarding the maximum credits allowed for certain credits for corporate, individual and insurance company claimants (alternative energy sources credit, research expense credit, research facilities credit, and clean fuel fueling station credit).

- Clarification as to who determines compliance with certain credit provisions and verification should be included (alternative energy sources credit, energy efficient commercial buildings credit, energy efficiency home improvement credit)

- The effective date of the bill leaves insufficient time for the department to make the necessary processing changes related to the motor vehicle fuel tax.

- The bill provides no provision for funding of $81,000 in one-time costs the department will incur due to form and programming changes.

- Other technical concerns are noted in a memo to the author.

Prepared by: Rebecca Boldt, (608) 266-6785

June 12, 2007