

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairperson Mike Petersen at 8:30 am on Thursday, February 19, 2015, 546-S of the Capitol.

All members were present

Committee staff present:

Jill Shelley, Legislative Research Department  
Whitney Howard, Legislative Research Department  
Adam Siebers, Office of Revisor of Statutes  
Carolyn Long, Kansas Legislative Committee Assistant  
Scott Wells, Office of Revisor of Statutes

Conferees appearing before the Committee:

Tom Whitaker, Executive Director, Kansas Motor Carriers Association  
Mike Hoeme, Director, Transportation Division, Kansas Corporation Commission  
Representative Jan Pauls  
Ty Dragoo, United Transportation Union, SMART  
Roy A. Eckert, City Manager, City of Wellington  
Dave Sterbenz, Department of Emergency Management, Shawnee County  
Vince Wetta, Wellington City Council and former House member  
Ron Strickland, City Manager, City of Herington

Others in attendance:

[See Attached List](#)

### **Approval of Minutes**

*Chairperson Petersen asked for approval of the minutes for January 27, 2015, January 29, 2015, February 9, 2015, and February 11, 2015. Moved by Senator Donovan, seconded by Senator Fitzgerald, that the Minutes be approved as presented. Motion passed.*

### **Hearing on: SB150 — Allowing corporate officers to appear before the corporation commission for certain fines.**

The Chairperson opened the Hearing on **SB 150**. Adam Siebers, Assistant Revisor, informed the Committee that this legislation would allow a corporate officer or attorney to enter an appearance and represent a corporation operating as a motor carrier before the Kansas Corporation Commission (KCC) when there are civil penalties of \$500 or less.

Tom Whitaker, Kansas Motor Carriers Association (KMCA), noted that current KCC regulations require an attorney to represent a corporation before the Commission. If a motor carrier is incorporated, perhaps as a limited liability corporation and accrues a civil penalty, in order to discuss the issue before the Commission the company must be represented by counsel. Mr. Whitaker requested that on lines 23 and 24, the words "an officer" be stricken and replaced with "a duly authorized representative." The KCC and KMCA have both agreed to this minor change ([Attachment 1](#)).

## CONTINUATION SHEET

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Mike Hoeme, Director, Transportation Division, KCC, noted that the Commission is open to treating civil penalties of \$500 or less in a manner similar to small claims proceedings. They understand the KMCA's concern with current statutory and regulatory requirements for a corporation to be represented by counsel in Commission proceedings ([Attachment 2](#)).

Mr. Hoeme was asked to provide the Committee with an explanation of the difference between corporations and partnerships.

There being no further discussion, the Hearing on **SB 150** was closed.

### **Hearing on: SB164 — Requiring two employees for train operation.**

Chairman Petersen opened the Hearing on **SB 164**. Mr. Siebers stated that this legislation would prohibit any train, locomotive, or light engine moving freight to be operated unless it has a crew of two persons, not including hostler service or utility employees. Mr. Siebers noted that he would propose a technical amendment on line 18 changing 5 years to 3 years.

Representative Jan Pauls said she felt this legislation was an important safety measure. She noted that there had been an incident wherein the rail employees voted down a substantial pay increase in order to maintain two-man crews ([Attachment 3](#)).

Ty E. Dragoo, representing the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART) with a membership of 2000 in Kansas said this bill would protect communities and provide timely responses to emergency responders as a result of two crew members in the cabs of locomotives. Additionally, most crew members are trained as first responders. He noted that the Positive Train Control (PTC) is a safety device designed to stop or slow trains automatically. However, he says that major railroads have lobbied Congress to postpone implementation of PTC by at least seven years as they feel it is untested and unproven. As recently as yesterday, Burlington Northern's Emporia subdivision suspended use of the PTC due to unknown technical issues and relied on the personnel in the cab ([Attachment 4](#)).

Roy A. Eckert, City Manager of the City of Wellington, is a strong proponent of this legislation largely due to the fact that Wellington has double tracks through their town and there have been instances where five crossings have been blocked at the same time. This type of situation would present a nightmare with a one-man crew ([Attachment 5](#)).

Dave Sterbenz, representing the Shawnee County Department of Emergency Management, believes this bill covers the five phases of emergency management: prevention, mitigation, preparedness, response, and recovery. Having crossings open is vital in emergency situations and a two-man crew is essential for public safety ([Attachment 6](#)).

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Vice Wetta, former Kansas House member and brakeman, conductor, and engineer for the Burlington Northern Santa Fe Railroad, stated that climate swings play a large part in rail conditions where one man could not perform all the jobs that could be required should an emergency arise. Mr. Wetta gave a brief history regarding the decrease in the number of people on a crew. He stated that originally there were five-man crews, but with technology and the elimination of the caboose (conductor and rear brakeman), rail detectors, and the elimination of a fireman, the crew was down to an engineer and conductor. ([Attachment 7](#)).

Also in favor of the bill was Roy Strickland, appearing for Brad Jantz, City Manager, City of Herington. Mr. Strickland feels that this legislation not only protects communities, it protects jobs ([Attachment 8](#)).

Written testimony in favor of the bill was presented by Zack Pistorae, Sierra Club ([Attachment 9](#)) and it was orally noted that support had been received from the Kansas State Association of Fire Chiefs.

Senator King inquired why a two-man crew would be needed if not transporting hazardous materials and once again it was noted that should a crossing be blocking an emergency vehicle, a one-man crew could not provide access to cross in a timely manner.

Senator Petersen stated that 99% of the crews are two-man. The Federal Railroad Administration is currently looking into this situation but currently there is no federal law as the federal government feels this should be handled on the state level.

Due to time constraints, Chairperson Petersen announced that opponents to **SB 164** would be heard the following day, Friday, February 20, 2015.

### **Possible action on bills previously heard**

There was no final action taken.

The meeting adjourned at 9:19 a.m.

The next meeting is Friday, February 20, 2015