

Approved January 17, 1984  
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR ROBERT V. TALKINGTON at  
Chairperson

9:00 a.m./p.m. on January 17, 1984, 19   in room 254-E of the Capitol.

All members were present except:

All members present.

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black.

Conferees appearing before the committee:

Hank Avila, Kansas Legislative Research Department.

The meeting was called to order by Senator Talkington, Chairman, who asked Edward DeSoignie to introduce Nancy Zielke a new staff member of the Department of Transportation.

Hank Avila presented staff review of bills from the 1983 Session which included SB 88, SB 131, SB 196, SB 205, SB 221, SB 237, SB 287, SB 360, SCR 1628, HB 2215, HCR 5017 and HCR 5038. (See attachment 1.) New bills assigned to the Committee including SB 478, SB 489, SB 490, SB 494 and SB 468 were also reviewed by Mr. Avila. (See attachment 2.)

Information and conclusions from the interim Special Committee on Transportation were given to the Chairman by Mr. Avila to be placed in Committee folders. (See attachment 3.)

Senator Talkington explained procedures of introducing bills to the Committee from the interim study, state agencies, Governor's Office and other sources.

Senator Morris indicated that car leasing firms in the State are not in compliance with insurance or licensing regulations. He said he will check with the Legislative Division of Post Audit on the matter and additionally requests that the issue be introduced before the Committee. The Chairman suggested that Senator Morris present a letter to the Committee concerning lack of compliance.

The meeting adjourned at 9:30 a.m.



Review of Bills

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Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

NAME	ADDRESS	ORGANIZATION	BILL NO.
Tom Whitaker	Topeka	Ks Motor Carriers Assn	—
Dan Ramlow	Topeka	Ks Contractors Assn	—
Bill Green	Topeka	STATE CONC. COMM	—
BILL PERDUE	"	KPL + GAS SERVICE	—
ED SCHAUB	"	SWBT	—
Roy D. Shenkel	"	K.C.P.L.	—
FRANK CONRAD	"	KG&E	—

MEMORANDUM

January 12, 1984

TO: Transportation and Utilities Committee  
FROM: Kansas Legislative Research Department  
RE: Holdover Bills from the 1983 Session

S.B. 88

S.B. 88 relates to construction work in progress of public utilities. The bill provides that the value of property of a utility under construction upon completion and dedication to commercial service, will be included in fixing fair and reasonable rates, joint rates, tolls and charges if value of the property exceeds 10 percent of the value of the utility net plant used or required to be used in the utility service to the public. If the property under construction will be completed in one year or less, such value must be included to its full extent. In both cases the Corporation Commission must authorize and approve the construction or acquisition of such property under construction.

S.B. 131

S.B. 131 concerns wages paid by contractors. The bill provides that if the Secretary of Transportation establishes a minimum rate of wages to be paid by contractors, the rate shall be established by the adoption of rules and regulations.

S.B. 196

S.B. 196 provides that no electric, gas, or telephone public utility shall file or apply in any 12-month period for more than one increase in any rate or charge.

S.B. 205

S.B. 205 directs the State Corporation Commission to establish certain rates for the use of natural gas by certain residential users. The Commission would have on or

before October 1, 1983, issued an order that would have established a maximum price on the first 30 mcf of natural gas purchased by low-income elderly and disabled persons.

S.B. 221

S.B. 221 relates to rates for services provided by natural gas public utilities. The bill defines an unjust rate to include any rate based on the purchase price clause of any "take or pay" natural gas purchase contract whenever the price exceeds the price at which natural gas is otherwise available.

S.B. 237

S.B. 237 would require the State Corporation Commission in a general rate proceeding involving an electric public utility which had just completed a new power plant, to exclude from the rate base the value of whatever portion of the new plant the Commission determines to be in excess of system capacity requirements for the year in which the plant is completed and first considered for ratemaking recognition.

<sup>287</sup>  
S.B. ~~257~~

<sup>287</sup>  
S.B. 257 relates to the Child Passenger Safety Act. The bill requires parents or legal guardians of a child under three years of age to provide for the protection of the child by using a safety restraining system.

In addition, new language was inserted to make it mandatory that the \$15 fine for violations of the act be waived if the parent or legal guardian provides proof prior to trial that the parent or legal guardian has purchased or acquired a safety restraining system for the child.

S.B. 360

S.B. 360 requires the Secretary of Transportation to negotiate with the United States Army and any other appropriate federal authorities to obtain consent to construct and maintain one or more retention dams on the Fort Riley Military Reservation. The dams are to be constructed and

maintained by the state from funds of the State Highway Fund together with any federal funds which can be obtained for such purpose. The dams are to be constructed and maintained to protect the city of Ogden from flood water flowing in streams tributary to the Kansas River whose flow is or has been obstructed or redirected by improvements to highways in the vicinity of Ogden.

S.C.R. 1628

S.C.R. 1688 requests the Corporation Commission to compile and make available data on the number of households disconnected from utility service for home heating fuel because of inability to pay.

H.B. 2215

H.B. 2215 would amend K.S.A. 66-119 to provide that in the event a customer is charged or billed on the basis of the reading of a meter and the meter is erroneously read resulting in a charge or bill which is less than the bill would otherwise have been, the error would not be corrected unless corrected within four months of the time when the erroneous bill or charge was received by the customer.

The provisions of the amendment would apply to municipally owned utilities and privately owned one-city utilities as well as to public utilities whether regulated by the State Corporation Commission or not.

H.C.R. 5017

H.C.R. 5017 amends Kansas Administrative Regulation 36-34-1 -- Child Passenger Safety Restraints, as adopted by the Secretary of Transportation on December 1, 1982. The resolution deletes statutory language from K.A.R. 36-34-1 so that child passenger restraining device specifications are clearly addressed.

H.C.R. 5038

H.C.R. 5038 urges Amtrak to resume the Lone Star Passenger Service to connect with the Southwest Limited passing through the state of Kansas.

MEMORANDUM

January 17, 1984

TO: Transportation and Utilities Committee  
FROM: Kansas Legislative Research Department  
RE: Bills Assigned to Committee

S.B. 478

S.B. 478 relates to liability for damages under the Kansas Tort Claims Act. The bill states that K.S.A. 1983 Supp. 75-6104 (exemptions from liability) shall not be construed to require the Secretary of Transportation or the State Transportation Engineer to comply with every generally recognized and prevailing standard, or with every element of every generally recognized and prevailing standard in existence at the time of approval of any plan or design, for the original construction of or any improvement to the highways in the state. Factors of cost and available resources may also be considered by the Secretary and State Transportation Engineer so long as the designs and plans approved are reasonable in light of all factors considered and documented. The same provisions apply to county engineers or board of county commissioners and to city engineers or a governing body of a city.

S.B. 489

S.B. 489 is a result of an interim study, Proposal No. 41 -- Driver Control Bureau. The bill, among other things, assesses one point to a person for each conviction of a moving violation committed on separate occasions within a 24-month period. If a person accumulates four or five points, the person must attend a driver's improvement clinic. For six and seven points, the driver's license is restricted for 90 days with a 60-day suspension for violation of the restriction. For eight or more points, the license is suspended for 30 days with an additional 30 days for each point in excess of eight points. The supervision is for not more than one year.

S.B. 490

S.B. 490 is the result of Proposal No. 42 -- Uniform Traffic Code. S.B. 490 would implement several substantive policy changes concerning the manner in which certain traffic violations are classified and treated by law

enforcement personnel and the district courts. The major changes may be summarized as follows:

1. A new classification of crime would be created which is denominated as a "traffic infraction"; a traffic infraction carries no penalty of incarceration and any fine imposed may not exceed \$500.
2. A number of less serious traffic violations (set forth in (c) of New Section 1) would be classified as traffic infractions.
3. A procedure would be established whereby the payment of a traffic infraction fine may be made by mail.
4. A statewide uniform fine schedule would be established for uncontested traffic infractions; also, cities may establish their own fine schedules which vary from the state fine schedule.
5. Persons would not be subject to arrest for committing traffic infractions.
6. Certain more serious traffic offenses would continue to be classified as misdemeanors (treated as a class C misdemeanor unless provided otherwise).

S.B. 494

S.B. 494 relates to driver's license and non-driver's identification card. The bill would allow persons with driver's license and nondriver identification card to: (1) use employee identification cards with signatures; (2) expired driver's license bearing a photograph of the person; and (3) a credit card of a company doing interstate business, bearing the signature of the person, when applying for a duplicate driver's license and nondriver identification card.

S.B. 468

S.B. 468 allows any party dissatisfied with an order or decision of the Corporation Commission to apply within 30 days from the date of the service of an order or decision, for a rehearing.



RE: PROPOSAL NO. 41 — DRIVER CONTROL BUREAU\*

Proposal No. 41 — Driver Control Bureau directs the Special Committee on Transportation to "review and make recommendations concerning the performance audit of the Driver Control Bureau of the Department of Revenue."

Background

The regulation of drivers in Kansas is a responsibility shared by a number of state and local agencies. Besides the Driver Control Bureau, these include the Driver License Examining Bureau, Highway Patrol or local law enforcement officers, and municipal or district courts. This system can be divided into three segments: ensuring that drivers are qualified and eligible to drive, catching and convicting drivers who violate the state's driving laws, and identifying the restricted problem drivers whose driving threatens the public safety. In general, the Driver Control Bureau's primary role is in this third segment.

The first segment in the system is to ensure that drivers are eligible to drive. The Division of Vehicles' Driver Licensing Examining Bureau tests the qualifications of all individuals applying for or renewing their licenses to drive in Kansas.

The second involves charging and convicting drivers who violate driving laws. This step is handled primarily by law enforcement officers and the courts. Drivers who are caught committing a violation are issued a citation or ticket. Typically, they must go to court to pay the fine or contest the charge. Those who are convicted must pay the fine imposed by the court for the violation committed. The courts then send notices of violation convictions to the Driver Control Bureau.

\* S.B. 489 accompanies this report.



The Bureau is responsible for the final phase in the driver regulatory system — administratively identifying and restricting or withdrawing the driving privileges of problem drivers. The Bureau processes and records violation notices onto each driver's computerized file. The Bureau and law enforcement agencies then have access to driver records (on a 24-hour basis) to determine if a driver has previous violations or is violating a license restriction. For a \$1 fee, insurance companies or any other interested party may also obtain a copy of a driver's record.

The Bureau is authorized by law to modify, suspend, or revoke an individual's license. This authority is shared with the courts, which may directly discipline or impose driving sanctions on a driver, depending on the type of violation committed.

#### Drivers' Offenses

The system described above identifies problem drivers and, when necessary, withdraws or restricts their driving privileges. In its report, the Legislative Division of Post Audit categorized problem drivers into three types:

1. Repeat offenders who accumulate three or more "nonserious" violations within a 12-month period. (In June, 1981, the Bureau administratively changed its policy to four or more such violations within one year.) Examples of nonserious violations include speeding, improper turn or failure to signal a turn, failure to obey a traffic sign or light, or failure to yield the right-of-way.
2. Serious violators, or drivers who have been convicted of committing one or more "serious" violations. Such violations include driving while under the influence of alcohol or drugs, refusing a chemical test for alcohol, leaving the scene of an accident, vehicular homicide, driving without liability insurance, and driving

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with a suspended or revoked license. Typically, these drivers have records of nonserious violations as well.

3. Habitual violators, or drivers who have committed three or more serious violations within five years. For example, a driver may have committed several offenses of driving under the influence, or of driving with a suspended or revoked license, or without insurance. These drivers typically have a history of dangerous driving actions.

#### Disciplinary Actions Against Problem Drivers

For repeat offenders, the Driver Control Bureau has the authority to suspend a driver's license of an individual for up to one year. As outlined in the Bureau's Operating Procedure policies, the suspension period is generally equal to one month for each nonserious violation. Minimum suspension periods are usually 90 days. (Three nonserious violations in 12 months equals 90 days.) These individuals are also given the option of attending one of the Bureau's driver improvement clinics as a rehabilitative alternative to a suspension provided the person has not been convicted of violations under K.S.A. 8-254, the serious violator statute, and K.S.A. 8-285, the habitual violator statute.

Disciplinary measures for serious and habitual violators are much more stringent. These drivers do not have the option of attending a driver improvement clinic in lieu of a suspension. Specifications for license suspension or revocation are spelled out in the law for those convicted of serious violations. Such drivers may request an administrative hearing and the Bureau has the authority to grant modified licenses for some serious violators — such as allowing them to drive to and from work — depending on their driving record and the nature of their violations. For drivers who have been convicted as habitual violators, the law (K.S.A. 8-288) stipulates a mandatory three-year revocation of their licenses.

The most common violations committed by drivers who were disciplined by the Bureau between 1979 and 1981, as identified by the computer analysis, were speeding, failure to obey traffic signs or instructions, failure to maintain insurance, reckless driving, and driving while under the influence of alcohol or drugs.

#### Committee Testimony

The bulk of testimony on Proposal No. 41 was from Legislative Post Audit and representatives of the Kansas Department of Revenue. Auditors from Legislative Post Audit told the Committee the purpose of the audit report was to see how well the Driver Control Bureau identifies problem drivers and restricts their driving privileges according to state law and how effective those disciplinary measures are in improving driving behavior pursuant to state laws. Post Audit concluded that the state's driver control regulatory program had little deterrent effect on many problem drivers. The auditors pointed out that:

1. the Bureau does not record or monitor a driver's probationary status;
2. driver improvement clinics do little to alter poor driving performance;
3. many drivers whose licenses are suspended or revoked continue to drive and commit violations anyway; and
4. there may be a need to upgrade staff capabilities.

The Department of Revenue responded to the audit report by saying that it believed that certain recommendations of the Post Audit report were valid and were being implemented as time and resources permitted. Areas of disagreement were technical or which involve policy changes that would require additional staff and funding. The Department outlined changes based on the report. The four it listed were:

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1. That to discipline all drivers under the current law would require an additional \$200,000 for staff, equipment, and postage.
2. Identification of problem drivers is being upgraded through an automated system.
3. The driver improvement clinic curriculum has been redesigned emphasizing driving attitudes and utilizing newly developed audio-visual materials and teaching guides. Further, the delivery of the services will be decentralized by service area. A fee of \$15 is also being assessed persons required to attend the course.
4. The problem of drivers continuing to drive after the license is suspended or revoked is partly due to delay by the courts. The Department supports consistent reporting and recording of either violation or conviction dates, but does not have the statutory right to do so.

Committee Conclusions and  
Recommendations

During the course of the hearings, the Committee asked the Department of Revenue to design a driver license point system which the Department believed might correct some of the problems brought out by the Post Audit report. Accordingly, the Department responded by recommending a point system based on a 24-month period rather than the current 12-month period. The Committee is therefore recommending the introduction of S.B. 489. The bill, among other things, assesses one point to a person for each conviction of a moving violation committed on separate occasions within a 24-month period. If a person accumulates four or five points, the person must attend a driver improvement clinic. For six and seven points the driver's license is restricted for 90 days with a 60-day suspension for violation of the restriction. For eight or more points, the license is suspended for 30 days with an additional

30 days for each point in excess of eight points. The suspension is for not more than one year.

The Committee also wishes to note that during its deliberations concern was expressed on the Kansas Department of Revenue suggested point system by the Kansas Highway Patrol.\* The Patrol believed that assessing one point for every moving violation on separate occasions would, in effect, treat serious and less serious traffic violations in the same manner. Also, the Patrol expressed concern about not including different violations that occur on the same occasion as more than one violation. The Committee directed the Patrol and the Department of Revenue to work together to resolve their differences and present their solution to the 1984 Legislature.

Respectfully submitted,

November 22, 1983

Sen. Robert Talkington,  
Chairperson  
Special Committee on  
Transportation

Rep. Rex Crowell,  
Vice-Chairperson  
Sen. Billy McCray  
Sen. Jan Meyers  
Sen. Joseph Norvell  
Sen. Dan Thiessen

Rep. Herman Dillon  
Rep. Bill Fuller  
Rep. Max Moomaw  
Rep. Dean Shelor

\* See the letter dated September 29, 1983, from Col. David Hornbaker to Senator Robert Talkington on file in the Kansas Legislative Research Department.

Session of 1984

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