

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:00 a.m./~~p.m.~~ on January 23, 1986 in room 254-E of the Capitol.

All members were present except:
Sen. Hoferer

Committee staff present:

Fred Carman, Revisor
Ben Barrett, Legislative Research Department
Hank Avila, Legislative Research Department
Louise Cunningham, Secretary

Conferees appearing before the committee:

John Kemp, Secretary of Department of Transportation

Secretary Kemp introduced his staff from the Department of Transportation. They were Deb Miller, John Sherman and Ed DeSoignie.

Secretary Kemp gave an overview of the Department's programs with a slide presentation and discussed the economic development program that the Governor had proposed.

Secretary Kemp discussed the maintenance and modernization of existing highways, which was the priority, and also the improvements in KDOT operations. He had charts which showed the decline in revenues. This was due to energy efficient automobiles and also to decreased registration fees. While more automobiles were being registered the weights were lower resulting in loss of revenue.

Secretary Kemp said there had been problems in the areas of the state which abandoned railroad right of ways and legislative action was necessary to protect property owners and citizens of the state from unnecessary expenditures. The Department is submitting legislation in the House.

Secretary Kemp said the Department would be supportive of measures to enact mandatory seat belt legislation which meets Federal criteria.

He also discussed financing for the economic development program. Loans would be made on the basis of cash needs. These loans would be made to communities which would have growth if they had the highways.

Secretary Kemp was asked about the rural areas and the inability of some smaller communities to share in these benefits. It seemed as tho the urban areas would be more likely to receive the benefits.

Secretary Kemp said that each community would have an equal chance. The repayment of the loans would come from the benefits.

A copy of Secretary Kemp's memorandum regarding legislative initiatives dated January 23, 1986 is attached. (Att. 1).

Meeting was adjourned at 10:00 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 1-23-86

Place 254-E

Time 9:00

GUEST LIST

| NAME | ADDRESS | ORGANIZATION |
|-------------------|---------------|-------------------------|
| Dan Ramlow | Topeka | Ks. Contractors Assn. |
| Ken Baker | Topeka | Ks. Ethanol Assn. |
| Dels Miller | Topeka | KDOT |
| Ed DE SOIGNIE | TOPEKA | KDOT |
| Row CALBERT | NEWTON | U.I.U. |
| Sabrina Wiechman | Topeka | K. A. D. R. A. |
| Carl St Rothman | Wichita | 3 m corp |
| CHARLES BELT | WICHITA | WICHITA AREA C of C |
| Richard Schlegel | Manhattan, KS | A.B.A.T.E |
| John B. Kemp P.E. | Topeka | KDOT |
| John R. Schermer | " | " |
| Mike Geomard | " | Ks Railroad Association |

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612-1568



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: SENATE COMMITTEE ON TRANSPORTATION
AND UTILITIES

FROM: JOHN B. KEMP, P.E.
SECRETARY OF TRANSPORTATION

REGARDING: LEGISLATIVE INITIATIVES

DATE: JANUARY 23, 1986

Mr. Chairman, members of the Committee, I would like to review with you now several issues which are of interest to the Department. These are: abandoned railroad right of way, mandatory seat belt, Highway Cost Allocation, and the Kansas Economic Development Highway Program.

1) Abandoned Railroad Right of Way

In his legislative message to the 1986 Kansas Legislature, Governor Carlin recommends legislation to require railroads to file legal notice of their abandonments of right of way at the request of property owners on whose property the easement exists. The need for such legislation has been created as a result of rail line abandonments as railroads strive to reduce their operating costs.

Kansas court decisions provide that ownership of abandoned railroad right of way reverts to adjoining landowners. However, it takes some affirmative action to establish that reversion has occurred and to clear the landowners' titles. Some railroads, specifically the bankrupt Rock Island, have tried to sell quitclaim deeds to the rightful owners and in some cases to parties other than the rightful owner. These problems have been widespread in those areas of the state with abandoned Rock Island railroad right of way. This has resulted in coercive pressures upon the landowners to make unnecessary expenditures, in confusion as to their legal rights as property owners, and in creation of ambiguities in the public records of title.

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I wish to emphasize that the problems with abandoned railroad right of way title do not involve most of the operating Kansas' railroads. In fact, the Kansas Railroad Association has been helpful and supportive of measures to correct these questionable practices.

On Monday, January 27, I will request the House Committee on Transportation introduce legislation which will require a railroad company, or any other person or entity holding title of record to abandoned railroad right of way other than the rightful owner, to file an acknowledgment of the reversion. The acknowledgment upon request by a landowner holding title subject to the railroad easement. If the entity fails to comply, it would face fines and penalties including payment of the rightful landowner's attorney fees if he or she must go to court to enforce these rights.

This bill would apply not only to operating railroad companies, but also to trustees, holding companies, salvage companies and similar concerns.

2) Mandatory Seat Belt

In recognition of the ever-growing cost, in both human suffering and dollars, of motor vehicle fatalities and injuries, the Governor has recommended enactment of mandatory seat belt legislation by the 1986 Legislature. The overwhelming evidence points to the fact that wearing seat belts does save lives.

As Secretary of Transportation, I will be supportive of measures to enact mandatory seat belt legislation which meets Federal criteria. Those criteria are:

1. No waiver of use except for medical reasons.
2. Minimum twenty-five dollar penalty for failure to use a seat belt in vehicles equipped with such devices. Court costs can be included in the twenty-five dollar penalty.
3. Failure to wear seat belts admissible in mitigation of accident damages.
4. A program to educate the public on benefits of the law.
5. A reporting program which requires the state to submit an evaluation of the law's effectiveness.

State laws that meet these criteria are referred to as "conforming" laws.

3) Highway Cost Allocation

Legislative interest in cost allocation began during the 1979 legislative session when the House Ways and Means Committee proposed that the Secretary of Transportation prepare a report on highway deterioration caused by heavy vehicles in the six highway districts. The 1980 and 1981 interim transportation committees held hearings and discussion on highway cost allocation studies. At that time, I informed those committees that we would conduct a study but requested that we be given time to consider the results of the Federal Highway Cost Allocation Study, specifically the methodologies recommended for use by the states.

The study was conducted by a KDOT task force consisting of five persons from separate professional disciplines within the Department of Transportation.

Copies of the draft Cost Allocation Study - 1985 were circulated for comment to all members of the House and Senate Transportation Committees, the Kansas Motor Carriers Association, the Kansas Railroad Association, the Road Improvement Program (TRIP), the United Transportation Union, Kansas Highway Users Federation and the American Automobile Association of Kansas. We are presently reviewing the comments which we have received.

As you all know Governor Carlin has recommended the establishment of a Kansas Economic Development Highway Program. If you will now direct your attention to the charts behind me, I will review with you the proposed program.

I have attached to this memorandum a brief summary of the Economic Development Highway Program for your review.

Thank you for your attention to these matters.

KANSAS ECONOMIC DEVELOPMENT HIGHWAY PROGRAM

Executive Summary

PURPOSE: The purpose of the Kansas Economic Development Highway Program is to assist local communities pursuing highway construction for the purpose of enhancing and supporting the economic development of those communities. Newer improved highway facilities contribute to more efficient use of resources in growth of economic and other activities in areas served, and are an important precondition for growth and development. The Kansas Freeway System was a statewide effort to build facilities to enhance statewide growth and development. This Kansas Economic Development Highway Program is a locally directed effort with state incentives.

The program is based upon providing interest free loans to local communities for the purpose of constructing highway facilities eligible to be placed on the state highway system that will enhance the economic development of those communities.

ELIGIBILITY: Any local governmental unit, combination of local governments, or quasi-governmental entity such as Port Authorities, may apply to the Kansas Department of Transportation for an Economic Development Highway Improvement Project. Projects must be improvements to a route on the state system, or qualify for addition to the state system once completed. Further, they must be for the express purpose of enhancing or supporting the economic development of the area. Routes to be added to the state system should substitute for existing facilities already on the system.

The local public authority is responsible for all phases of the project and will turn completed facility over to the Secretary of Transportation. Projects must meet current federal standards; The Secretary of Transportation shall insure that those standards are met before accepting a completed facility. The Secretary's responsibilities for all roads on the State Highway System will apply to these facilities upon final acceptance.

FUNDING: Loans shall be made for approved projects from the Economic Development Highway Loan Fund. The requesting local public authorities shall enter into agreements with the Secretary of Transportation to repay the loans in ten equal annual payments beginning on the third anniversary date of the initial disbursement for the project. Eligible expenditures include preliminary engineering, construction engineering, right-of-way acquisition, utility adjustments, and construction costs.

The Secretary of Transportation will make commitments to loans on a cash flow basis. Upon awarding the construction contract, the Secretary shall make payments to the local unit for expenditures of preliminary engineering, right-of-way, and utility adjustments that have occurred prior to that date. Future loan payments shall be made on the basis of contractor payments and construction engineering costs.

Loans from the fund shall be secured by Local Ad-valorem Tax Reduction Fund, City and County Revenue Sharing Fund, and Special City and County Highway Fund receipts to the local public authority.

PROJECT APPROVAL: The Secretary of Transportation will solicit project requests from local public authorities annually. These requests should include: general alignment and design concepts for the facility; the anticipated economic development benefits of the project; statement of concurrence of all public authorities involved in the proposed project; identification and legal authority of applicant; proposed project schedule; estimated project cost; and overall financing plan. The requesting authorities should hold public hearings on the alignment and design concepts prior to requesting projects from the Secretary.

The Secretary of Transportation and the Secretary of Economic Development shall annually review all project requests and recommend a program of projects to the Governor prior to January 1 each year. The recommended program should include a general description of each project, the anticipated economic benefits, the current status of the Fund and the anticipated balances of the Fund. Projects should be selected for the recommended program based on anticipated economic benefits, anticipated cash flow, and the viability of the loan. A minimum of ten percent of the annual funds available to be obligated for projects shall be reserved for cities under 10,000 population. These funds may be released for other projects if requests are not received from those communities.

The Secretary of Transportation shall enter into written loan and project agreements with the local requesting authorities upon approval of the program of projects for each year.