

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~am~~/p.m. on March 17, 1987 in room 519-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Hank Avila, Legislative Research
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Ms. Martha Gabehart, Kansas Department of Human Resources
Captain David Hornbaker, Kansas Highway Patrol
Representative James Lowther
Colonel Bert Cantwell, Kansas Highway Patrol
Senator Roy Erlich
Representative Larry Turnquist
Mr. Harlan Priddle, Secretary, Department of Commerce
Mr. Leroy Jones, Brotherhood of Locomotive Engineers
Mr. Ron Calbert, United Transportation Union
Mr. Ed DeSoignie, Kansas Department of Transportation
Reverend Richard Taylor, Topeka, Kansas
Mr. Pat Hubbell, Kansas Railroad Association

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on SB-102 concerning handicapped parking.

Ms. Martha Gabehart, Kansas Department of Human Resources, presented testimony in support of SB-102, on behalf of Mr. Ray Petty. (See Attachment 1)

The hearing on SB-102 was concluded.

The next order of business was a hearing on SB-109 creating the vehicle identification number fee fund.

Captain David Hornbaker, Kansas Highway Patrol, spoke in support of SB-109. (See Attachment 2) He said currently, all monies collected are deposited to the State General Fund, pursuant to K.S.A. 1986 Supp. 8-116a.

Captain Hornbaker reported that shortly after enactment of the statute, a civil lawsuit was filed in Riley County District Court naming the State of Kansas as defendant. He said among the issues raised by the plaintiff was a question of constitutionality of the statute in that it is a revenue-raising law disguised in regulatory clothing.

Captain Hornbaker said the court found in favor of the State on the lawsuit, but the plaintiff has appealed.

Representative James Lowther spoke in support of SB-109. (See Attachment 3)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~am~~ p.m. on March 17, 19 87

Colonel Bert Cantwell, Kansas Highway Patrol, spoke in favor of SB-109. He said that private designees perform approximately three-fourths of the vehicle identification number inspections. He added that they are in a limited number of counties, but they are in the large counties.

The hearing on SB-109 was concluded.

The next order of business was a hearing on SB-184 enacting the Kansas Rail Passenger Preservation Act.

Senator Roy Erlich, primary sponsor of SB-184, briefed the Committee on the bill.

Representative Larry Turnquist, Salina, Kansas, spoke in favor of SB-184.
(See Attachment 4)

Mr. Harland Priddle, Secretary, Department of Commerce, spoke in support of SB-184. He said the revival of passenger train service in Kansas would aid economic development in the state, and his agency would be happy to cooperate with the Kansas Department of Transportation in the feasibility study.

Mr. Leroy Jones, Brotherhood of Locomotive Engineers, testified in support of SB-184. (See Attachment 5)

Mr. Ron Calbert, United Transportation Union, testified in support of SB-184. (See Attachment 6)

Reverend Richard Taylor, Topeka, Kansas, spoke in favor of SB-184.
(See Attachment 7)

Mr. Ed DeSoignie, Kansas Department of Transportation, testified concerning SB-184. (See Attachment 8) He stated that KDOT is not opposed to SB-184.

Mr. DeSoignie provided a copy of Section 403(b) of the Rail Passenger Service Act providing the process for states to be involved in a subsidization program for rail passenger service. (See Attachment 9)

Mr. Pat Hubbell, Kansas Railroad Association, testified concerning SB-184. (See Attachment 10) He stated the Kansas Railroad Association is neither a proponent nor an opponent of this legislation.

The hearing on SB-184 ended.

Attention was turned to Committee discussion and action on SB-189 designating Interstate Highway 670 as Jay Dillingham Freeway.

A motion was made by Representative Snowbarger that SB-189 be recommended favorable for passage. The motion was seconded by Representative Moomaw. Motion passed.

The next bill taken up for Committee discussion and action was SB-29 concerning the registration of city and county vehicles.

A motion was made by Representative Dillon that SB-29 be recommended favorable for passage. The motion was seconded by Representative Spaniol. Motion passed.

CONTINUATION SHEET

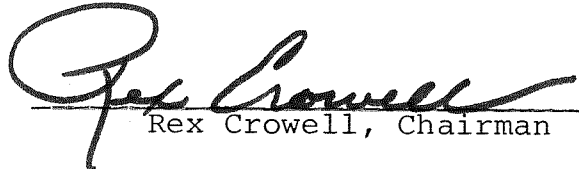
MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on March 17, 1987

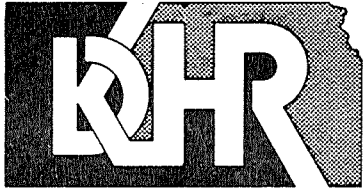
The next bill taken up for Committee discussion and action was SB-55 concerning the waiver of penalties for late vehicle registration.

A motion was made by Representative Spaniol that "and interest" be inserted after the word "penalty" on Line 23 of SB-55. The motion was seconded by Representative Moomaw. Motion passed.

A motion was made by Representative Snowbarger that SB-55 be recommended as amended favorable for passage. The motion was seconded by Representative Dillon. Motion passed.

The meeting was adjourned at 3:00 p.m.


Rex Crowell, Chairman

ADVISORY COMMITTEE ON EMPLOYMENT
OF THE HANDICAPPED

1430 S.W. Topeka Avenue, Topeka, Kansas 66612-1877

913-~~232-7828~~ (V/TDD) 567-~~0828~~ KANS-A-N

296-1722

561-1722

Testimony in support of Senate Bill No. 102
regarding handicapped parking

House Transportation Committee

prepared by Ray Petty, Legislative Liaison, KACEH

March 17, 1987

Mr Chairman and Members of the Committee:

Thank you for this opportunity to testify on behalf of Senate Bill 102. I am sorry I could not be with you this afternoon, but I did want to comment on the bill. If there is any confusion about the bill, I will be back next week and will be glad to help clarify or address any concerns you may have at that time.

Senate Bill 429, which originated in this committee following interim study in 1985, and signed into law last year, made a number of favorable changes in Kansas' handicapped parking law. Following the enactment of that legislation, the new law was codified at K.S.A. 8-1,124 et. seq. KACEH is pleased with those changes.

Senate Bill 102 contains four relatively minor changes which will improve the law by removing two misunderstandings and clarifying two practices. Each of these issues is fairly straightforward. I will touch on each one briefly in this prepared testimony, but would be glad to go into more detail at a later date should that be necessary. As you are no doubt aware, this bill passed the Senate on a 38-0 vote.

The first requested changed is in lines 24-26 of the bill. In defining "handicapped person" the law prior to the passage of Senate Bill 429 last year spoke of "mobility impairment" without limiting that to a consideration of walking ability. We suggested the inclusion of the criterion (taken from the Paralyzed Veterans of America model) of "inability to travel unassisted more than 200 feet" to offer physicians guidance as to how severe the impairment should be to justify authorization of the permit.

The new definition of "handicapped person" is being interpreted by the Department of Revenue in a way other than was intended. "Travel(ing) unassisted more than 200 feet" is not being applied to the shopping list of conditions "including partial paralysis . . . rheumatism" but only to "or other debilitating condition". There have been various opinions as to the best way to correct that interpretation. To make a long story short, while I am a bit uncomfortable with "which such impairment or condition limits such

person' walking ability" in terms of the use of "such" (I thought the revisor's office intended to minimize if not eliminate such language), I am convinced that the amended bill serves the intended purpose of applying the 200 foot criterion to all applicants. I also understand that the Department of Revenue intends to fix the application to reflect this new understanding, whatever the exact wording or punctuation turns out to be.

Second, in lines 53-56, it is being made explicit that a person can obtain a personalized handicapped parking plate. The fact is that vanity wheelchair plates have already been issued to a few hearty individuals who apparently persisted in being made exceptions to the rule. By adding this language to the law, the standard handicapped parking application procedures will apply, as will the parking privileges. Otherwise, those plates with wheelchair symbols and someone's name or initials or whatever five other characters one chooses are technically not handicapped parking devices in Kansas. The charge for the vanity handicapped parking plate will be the same as for other vanity plates.

Third, in lines 83-84, we need to restore the provision allowing a person to obtain both a special license plate and a placard upon request. Last year a floor amendment in the House, which was intended to correct an apparently ungrammatical construction in the bill, instead did away with a provision that had specifically been added to the law in 1984. The change last year was inadvertent and no objection has been raised to restoring this allowance.

Last, but not least, the proposed change in lines 101-103 makes it a violation of handicapped parking to block an adjacent wheelchair ramp, rather than the actual parking space itself. It makes little sense to allow someone to knowingly - and it would be knowingly because the sign would make it obvious to any cognizant being - park in or block the access aisle. Of course, police will use their own discretion in deciding if the violation is flagrant.

We would appreciate your support of this bill. Thank you.

a:hp3-17

SUMMARY OF TESTIMONY
HOUSE TRANSPORTATION COMMITTEE
TUESDAY, MARCH 17, 1987
SENATE BILL 109
BY
CAPTAIN DAVID HORNBAKER
KANSAS HIGHWAY PATROL

The Patrol appears today in support of SB 109.

Currently, pursuant to K.S.A. 1986 Supp. 8-116a, all monies collected as a result of this statute are deposited to the State General Fund.

Shortly after enactment of the statute, a civil lawsuit was filed in Riley County District Court, naming the State of Kansas as defendant. Among the issues raised by the plaintiff is a question of constitutionality of the statute in that it is a revenue-raising law disguised in regulatory clothing.

This particular issue was raised at, as the court stated, at the 11th hour, and as the issue was not identified at pretrial conference, the issue was not considered by the court. The court found in favor of the State on the lawsuit, but the plaintiff has appealed.

Based on this new issue, the State's attorney in this case, a Department of Revenue employee, recommends the present statute be amended to allow for all monies collected pursuant to the State be credited to a fee account within the Highway Patrol.

Your favorable consideration of this bill is appreciated.

2. Delete \$18,293 from the Capitol Area Security Fund and 1.0 F Patrol Officer I from the Capitol Area Security Patrol. The State Treasurer's FY 1988 expenditure request does not include a request for security services.
3. Add \$13,014 from the State General Fund for gasoline expenditures in the KHP-Operations program. The recommendation is based on an increase in gasoline prices from \$.70 per gallon to \$.72 per gallon. The Subcommittee notes that three new bulk fuel tanks will begin operation by early FY 1988 in Hays, Garden City, and Chanute, in addition to current tanks in Olathe and Wichita.
4. Add \$208,444 and 5.0 FTE positions to the Emergency Medical Services (EMS) program and transfer the Emergency Medical Training Program from the Kansas University Medical Center (KUMC) to EMS. On January 23, 1987, the EMS Council, which includes representatives from KHP, EMS, and KUMC, recommended the transfer of all responsibilities associated with the training program to EMS. The Subcommittee recommends the creation of an Attendant Testing Fee Fund in the KHP appropriation bill and that the identical restricted fund at KUMC be abolished. Of total receipts, \$32,000 would continue to offset costs associated with attendant testing and the remaining \$30,000 would offset costs associated with the training program. Remaining costs for the training program for FY 1988 would be \$178,444 from the State General Fund. Total costs include \$144,644 for 3.0 FTE Registered Nurse Vs, and 2.0 FTE Office Assistant IIIs; \$25,000 for a physician consultant; \$12,800 for office rent; and \$26,000 for all other supplies and services.
5. The Subcommittee notes that the Patrol will have 230 Rueger rifles on hand by the end of FY 1987. The Subcommittee recommends that any new rifles purchased in FY 1988 and succeeding years be assigned to road personnel only.
6. The Subcommittee recommends that the House amend S.B. 109 to transfer the motor vehicle inspection function to the Patrol. The program is currently contracted by the Patrol to local communities which annually inspect approximately 120,000 vehicle identification numbers. The Subcommittee notes that 25 new Troopers would be needed in FY 1988 to operate the inspection program, requiring the expenditure of approximately \$1,157,000 for salaries and equipment. The entire \$10 fee currently collected by designees of the Patrol Superintendent would be deposited in a newly created Vehicle Identification Number Fee Fund. Estimated annual receipts

- 3 -

of \$1.2 million would be used to offset Patrol expenditures associated with the administration of the program. The Subcommittee also recommends that inspections continue to be contracted to persons designated by the Superintendent in counties in which a Trooper does not reside.

STATE OF KANSAS

LARRY F. TURNQUIST
REPRESENTATIVE, SIXTY-NINTH DISTRICT
SALINE COUNTY
852 S. 10TH
SALINA, KANSAS 67401-4858



TOPEKA

HOUSE OF
REPRESENTATIVES

March 17, 1987

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: INSURANCE
MEMBER: ADVISORY COMMITTEE ON CHILDREN
AND YOUTH
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS
WAYS AND MEANS

Chairman Rex Crowell and members of the House Transportation Committee. I support SB 184 (HB 2367), The Kansas Rail Passenger Preservation Act. I believe this proposal could be very important in dealing with future transportation needs of Kansas citizens. Additional rail service is a safe and economical form of public transportation. The current fares for Amtrak service for this region costs from \$59.00 to \$99.00 depending on the number of regions traveled. During 1977-1981, Amtrak provided over 10 billion passenger miles. Rail service, as proposed, could connect major cities in Kansas to surrounding states. This alone could increase tourism and thus economic development.

Rail service could attract new business and industries by providing an alternative form of transportation. Currently, Kansas City is the hub of the Amtrak midwest service. Denver is the most requested city in this region but is not serviced by Amtrak from the Kansas City hub. A possible Kansas City-Denver route could serve the elderly and handicapped citizens of Kansas. Rail service also could help alleviate transportation problems in rural Kansas. With decreases in bus and air service a passenger train can become a feasible option. In fact, Debbie Marciniak, regional Amtrak spokeswoman in Chicago said, "We have trains that started out with a loss that have become self-supporting or even profitable".

Certainly there is strong support for a study to be done. When I was first elected to the House of Representatives in 1976, there was talk of establishing an Amtrak route from Kansas City to Denver. I personally felt that it was a feasible option at that time and I believe that it is an even better option today. I have had many letters of support from various regions of Kansas. Certainly many local chambers of commerce are supportive of this study.

Att. 4

They feel that this could become a viable alternative for transportation needs in their respective communities.

When I worked with the Revisors Office, I specifically requested the inclusion of the language on lines 43-45 to make it clear that this proposal should have a positive effect on economic development in Kansas. I know that the Department of Commerce is supportive of this feasibility study.

Another positive aspect is that with passenger service railroad abandonment and loss of rail service to our communities, farmers and manufacturers is far less likely to occur. In conversations with officials of Amtrak in Washington D.C. they believe the cost of a study could be in the range of \$20,000.

I would urge the committee to pass SB 184.

Thanks,
Larry Jurgens

Editorials

*In God We Trust**All aboard for Denver*

Topeka is lucky to have passenger train service. But Amtrak's routes, while handy for those traveling east or southwest, offer nothing for those heading west. Furthermore, many Kansas communities, including Salina and Hays, are miles from any train stop.

Some Kansas legislators want to bridge that gap. A bill introduced in the Legislature would authorize the Kansas Department of Transportation to open negotiations with Amtrak to provide Kansas City-to-Denver service three times a week.

The anticipated route would go through Topeka. Following Union Pacific tracks, it also would run through Lawrence, Manhattan, Junction City, Salina, Russell, Oakley and Weskan.

The idea for such a train is not new. But it is not one that Amtrak would undertake on its own. And Kansas' hands were tied because of constitutional restraints on providing the necessary subsidy to get Amtrak interested.

The state's hands were freed, however, when voters last August approved the constitutional amendment allowing the

state to participate in "works of internal improvement." Subsidizing the Amtrak route qualifies as one of those works.

Other states have traveled the same route. The Missouri Mule, a twice-a-day run between Kansas City and St. Louis, commands \$3.3 million from the state. Illinois, Michigan, California, Pennsylvania and New York subsidize routes.

Approving the bill does not guarantee a KC-Denver train will be forthcoming. But it would open the door to determining the feasibility of such a route.

Amtrak's participation depends on availability of both equipment and money to subsidize first-year losses. Kansas would have to commit to pick up 45 percent of first-year losses. In subsequent years, the state's responsibility would be 65 percent of losses.

If the passengers are not there to make such a route at least close to breaking even, it should be dropped. But neither Kansas nor Amtrak will know that without conducting the proper studies.

Legislators should get this bill on a fast track to the governor's office.

Some solutions come cheaper

Art E

"What are you
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DATE:

Thurs. 3-10-87

Officials hoping to ride the rails again

By JUDITH WEBER
Staff Writer

Chamber of commerce officials in Salina, Russell and Hays like the idea of an Amtrak passenger train stopping in their cities.

But just getting a feasibility study done to determine the state's cost of subsidizing an Amtrak route through northern Kansas may be a difficult task, said state Sen. Joe Norvell, D-Hays, who is pushing for the study.

The Kansas Senate Transportation Committee endorsed a bill last week that would allow the Kansas Department of Transportation to conduct the study for an Amtrak passenger route between Kansas City and Denver.

The bill was given first-round approval by the Senate Monday afternoon, following 35 minutes of debate.

The bill authorizes the transportation agency to establish a state plan for rail passenger service and look at the possibility of restoring a passenger train across northern Kansas.

"It was a very heated debate," Norvell said.

In the past few days, there has been some heavy lobbying against having the feasibility study done, Norvell said. There is concern about the cost of the study itself, in addition to the later cost to the state to subsidize the route.

The feasibility study is estimated to cost between \$20,000 and \$50,000.

The Senate is scheduled to take a final vote on the bill this morning. Despite some opposition, Norvell believes the bill will pass and go to the House Transportation Committee, he said.

"We are not committing the state to anything (just by doing the study)," he said.

The study is needed to give Kansas the "cold, hard figures" to decide whether to subsidize the route, he said.

"It's in the best interests of the entire state," the Hays senator said.

Airline deregulation has left many small rural communities without air service, and Trailways bus line recently has discontinued service to 40 Kansas communities.

"Since transportation needs have now changed, this bill is timely," Norvell said.

Another concern is that Union Pacific is allowing some track in western Kansas to fall into disuse, he said. The Amtrak passenger route would preserve that track for continued freight use, especially for agricultural products.

"It would justify keeping the tracks open," he said. "If we do not act now, then the cost later on will be so great that it will not be economical."

"We believe we must have the vision to look at transportation needs, not only today, but a decade from now."

In Missouri, the state subsidizes the cost of running two daily trains between St. Louis and Kansas City. There is a demand in Missouri for a route that goes to Denver, Norvell said.

Not only would a Kansas City-to-Denver route allow Kansans to travel east, it also would allow them to go west to destinations such as Salt Lake City, Las Vegas, Nev., and Los Angeles, he said.

"This route would not only connect Kansas towns, it would make Kansas a connecting link to the rest of the nation," he said.

If Amtrak would approve the route, then under the Federal Rail Passenger Act, Kansas would pay 45 percent of any losses incurred the first year of operation, Norvell said. The state would pay 65 percent of any incurred losses in each of the following years.

In addition, Kansas would pay 50 percent of associated capital costs each year, which includes things like track maintenance and depots.

Recent Amtrak statistics are encouraging, he said. Amtrak revenues in 1986 were \$861 million, up \$36 million from 1985. The passenger rail line carried 20 million passengers in 1986 and traveled 5 billion passenger miles, up 200 million miles from 1985.

"Amtrak passenger train is on the upswing," Norvell said. "It's coming back."

Sen. Ben Vidricksen, R-Salina, said Amtrak's 1986 revenue covered 62 percent of the rail's expenses. In the same year, Amtrak received \$600 million in federal subsidies, he said. Six other states have elected to subsidize Amtrak routes.

TELEGRAM
NEWS
NEWS
JOURNAL WORLD
I TIMES

MANHATTAN MERCURY
 PARSONS SUN
 PITTSBURG MORNING SUN
 SALINA JOURNAL

Vidricksen also would like to see the Amtrak passenger route from Kansas City to Denver.

"I think it would be wonderful," he said. "(But) I think you're going to find that it would not be feasible unless they can prove the amount of passengers would make up the difference."

The current fare for the Amtrak trip between St. Louis and Kansas City averages out to about 13 cents a mile, Vidricksen said, making a similar fare from Salina to Denver about \$58.

The plan under discussion for the Kansas City-to-Denver route would be a three-times-a-week route, Vidricksen said. The train would go to Denver one day and come back the next.

The train would stop in Lawrence, Topeka, Manhattan, Junction City, Salina, Russell and Hays.

Chamber officials in Salina, Russell and Hays like the idea of Amtrak stopping in their cities but are waiting to see what happens in the Legislature before planning to take action.

Gerald Cook, president of the Salina Area Chamber of Commerce, said the organization supports anything that will bring traffic through Salina. He supports doing the study.

But on the feasibility of the route, he said, "I think it's going to boil down to dollars."

Russell Chamber of Commerce executive vice president Glenda Finke said the Amtrak route would help economic development in her area.

Robert Collins, president of the Hays Chamber of Commerce, said the organization still is studying the issue.

"We haven't looked at it hard yet," he said.

"If it needs some boost, we'll probably step in."

Brotherhood of Locomotive Engineers

Kansas State Legislative Board

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MEMORANDUM TO: The Honorable Richard L. Bond

FROM: Leroy D. Jones

REGARDING: Senate Bill 184-Kansas Rail Passenger Preservation Act

This is the information that you requested on Senate Bill 184. I hope that it will be helpful. Thank you for carrying this bill.

Senate Bill 184 has 26 sponsors and the companion bill in the House, House Bill 2367, has 72 sponsors. This bill authorizes the Kansas Department of Transportation to exercise those powers necessary for the State to qualify for rail service preservation subsidies or other assistance pursuant to the provisions of any federal act. The Department shall:

- a) establish a state plan for rail passenger transportation;
- b) administer and coordinate the state rail passenger plan;
- c) provide in the state rail passenger plan, for the distribution of federal rail service preservation subsidies or other federal assistance;
- d) provide satisfactory assurances on behalf of the state that such fiscal control and fund accounting procedures will be adopted by the state as may be necessary to assure proper disbursement of and account for federal funds paid to the state; and
- e) cooperate with the State Department of Commerce for the purpose of enhancing economic development.

The Kansas Department of Transportation is also authorized to provide financial assistance, within the limits of the funds appropriated for the preservation of operations and maintenance of any rail service within the state as provided for in relevant federal legislation. In addition, the Department may enter into general contractual arrangements with other states in connection with the preservation of passenger rail service in Kansas.

This act, if enacted into law, shall take effect, and be in force from and after July 1, 1987.

Attach. 5

Those that submitted testimony in favor or unopposed were: Kansas Department of Transportation, Kansas Department of Commerce, National Association of Railroad Passengers, Senator Ehrlich, Representative Turnquist on behalf of the House companion bill, H.B. 2367, United Transportation Union, and the Brotherhood of Locomotive Engineers.

This bill, by itself, does not have a fiscal note. But if there is a particular route that the state would like to look at, there would be the cost of a feasibility study. There is a great amount of interest at looking at a train from Kansas City to Denver over the Union Pacific route. This route would service such cities as Lawrence Topeka, Manhattan, Junction City, Abilene, Salina, Russell, Hays, and Oakley. Many of these cities are going to lose their bus transportation due to Trailways doing away with its route. Also, Western Kansas needs other forms of transportation. Not all citizens own a car or are able to drive them for long distances. Amtrak service allows these citizens, along with the elderly and the handicapped, an alternative means of transportation.

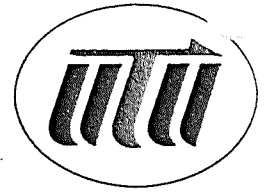
Preliminary estimates indicate that it may cost between \$20,000 and \$50,000 to do one of the feasibility study. Amtrak's process of these studies would include an inspection, planning, marketing and feasibility study. Missouri has stated that they are interested in working with Kansas on a Denver train.

If Amtrak approves the route, the State would pay 45 percent of the cost the first year, and 65 percent of the cost in each year thereafter. The State would have to provide 50 percent of the associated capital costs in each year of operation. An example of this would be depots and track maintenance. Until a study is made on a route, it is very difficult to estimate the annual cost to the state. With the cost of the proposed new highway system being around \$800 million, the cost of studying and funding a Amtrak train does not seem unreasonable.

AMTRAK FACTS

1. Amtrak's 1986 revenues were \$861.4 million (up \$36.5 million)
2. Amtrak carried a total of 20.3 million passengers in 1986
3. Amtrak had a total of 5 billion passenger-miles (up 200 million from 1985)
4. 1986 revenues covered 62 percent of Amtrak's expenses (up from 58 percent in fiscal 1985)
5. Federal subsidy in the current fiscal year is just over \$600 million (smallest subsidy of all forms of Transportation)
6. States that participates in funding Amtrak service are: California, Illinois, Michigan, New York, Pennsylvania, and Missouri
7. Missouri funds two trains daily between Kansas City and St. Louis

R. E. (RON) CALBERT
DIRECTOR/CHAIRMAN



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130 EAST FIFTH STREET
P.O. BOX 726
NEWTON, KANSAS 67114-0726
TELEPHONE (316) 283-8041

KANSAS STATE LEGISLATIVE BOARD

Statement Re: Senate Bill No. 184

An Act enacting the Kansas rail passenger preservation act.

Presented to: House Transportation Committee

March 17, 1987

Mr. Chairman, and members of the Committee, thank you for the opportunity to appear before you today on Senate Bill No. 184. I am Ron Calbert, Director, Kansas State Legislative Board, **United Transportation Union**. The **United Transportation Union** is a strong supporter of all public transportation in our State, and that is why I appear today in support of Senate Bill No. 184, enacting the Kansas rail passenger preservation act.

Amtrak is a quasi-public, federally funded National Railroad Passenger Corporation, created by Congress, which on May 1, 1971 took over most United States intercity passenger service from the railroads. Last year, Amtrak reported record revenues, while also rolling up its highest passenger mile total ever. Revenues in 1986 covered 62 percent of Amtrak's expenses, up from 58 percent in fiscal 1985.

I can attest to the public, transportation services in our State have greatly diminished both passenger trains and buses. As a representative of Trailways, Inc. bus drivers, I am involved in Trailways' application to discontinue several bus routes on April 1, 1987, which is currently before the Interstate Commerce Commission; twenty-nine (29) cities in Kansas will be without any form of public transportation. In the November election of 1986, the people of Kansas voted to repeal internal improvements found in Chapter 9, Article 11 of the Constitution

of Kansas. This could mean that the Legislature of Kansas will have to consider supplementing monies to fund, or partially fund, public transportation in our State.

The **United Transportation Union** strongly supports the passage of Senate Bill No. 184, the Kansas rail passenger preservation act.

Thank you, Mr. Chairman, for furnishing me the opportunity to appear before your Committee and express the concerns of the Kansans I represent. I will attempt to answer any questions at this time.

March 17, 1987 Hearing on SB 184
House Transportation Committee
Richard Taylor

I grew up on a farm near Abilene. As an officer in the Navy during World War II, I rode the train east and west out of Abilene every time leave was granted during those 4 years.

Since the war, I have taken the train many times to the east and west coast. Last November my wife and I drove to Denver and took the train to Seattle to visit our son and daughter-in-law. We made that same trip in 1984 also. I wish we could have boarded in Topeka.

Someone said, "I'd take a train no matter where it was going." There are lots of people like me. With bus transportation going to the dogs, and with fewer Greyhounds running, it would be good to give persons the opportunity to ride the rails again.

When railroads operated passenger trains, Denver to Kansas city was a major route. Let's make it a major route again.

(P.S. I believe the CITY OF SALINA was the first streamlined Union Pacific passenger train. As a little boy, I remember driving to Salina to see it on its first run. I still have a wind up tin toy train that is the CITY OF SALINA. It's not for sale.)

Dick Taylor

KANSAS DEPARTMENT OF TRANSPORTATION

DOCKING STATE OFFICE BUILDING — TOPEKA, KANSAS 66612-1568
(913) 296 — 3566



HORACE B. EDWARDS, Secretary of Transportation

MIKE HAYDEN, Governor

March 17, 1987

MEMORANDUM TO: The Honorable Rex Crowell, Chairman
House Transportation Committee

FROM: Edward R. DeSoignie
Policy Coordinator

REGARDING: Senate Bill 184

Thank you Mr. Chairman, members of the Committee. My name is Ed DeSoignie and I represent the Kansas Department of Transportation.

Senate Bill 184 authorizes the Kansas Department of Transportation to exercise those powers necessary for the State to qualify for rail service preservation subsidies or other assistance pursuant to the provisions of any federal act. The Department shall:

- a) establish a state plan for rail passenger transportation;
- b) administer and coordinate the state rail passenger plan;
- c) provide in the state rail passenger plan, for the distribution of federal rail service preservation subsidies or other federal assistance;
- d) provide satisfactory assurances on behalf of the state that such fiscal control and fund accounting procedures will be adopted by the state as may be necessary to assure proper disbursement of and account for federal funds paid to the state; and
- e) cooperate with the State Department of Commerce for the purpose of enhancing economic development.

The Kansas Department of Transportation is also authorized to provide financial assistance, within the limits of the funds appropriated for the preservation of operations and maintenance of any rail service within the state as provided for in relevant federal legislation. In addition, the Department may enter into general contractual arrangements with other states in connection with the preservation of passenger rail service in Kansas.

This act, if enacted into law, shall take effect, and be in force from and after July 1, 1987.

Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) and amendments provides the process for states to be involved in a subsidization program for rail passenger service. (A copy of this legislation is attached to my testimony.)

Att. 8

Preliminary estimates indicate that it may take up to \$50,000 to begin the process - that is, Amtrak inspection, planning, marketing and feasibility study. If Amtrak accepts the application and the decision to add passenger routes is approved, then the State would provide 45 percent of the short-term avoidable losses of operating such service in the first year, and 65 percent of these costs in each year thereafter. In addition, the State would have to provide 50 percent of associated capital costs in each year of operation. The avoidable losses are based on a complex formula involving several factors.

It is difficult to estimate the annual costs to the Department, since it is unknown what tracks or additional lines would be involved at this time. A survey of Missouri and Illinois was made to obtain some idea of the costs. It must be noted that the costs in these states should not be taken as typical costs that Kansas would incur since conditions are different between the states.

Survey:

Missouri - Section 403 B Program:

Track: Kansas City to St. Louis - 283 miles of track
Schedule: Two trains daily: 1 in the morning and 1 in the evening
Stations: Six stops between Kansas City and St. Louis; seventh stop is currently being planned.
Total Costs Per Year: Approximately \$3 million
Funded: 83% by State General Fund and 17% by State Transportation Fund.
Average Speed: 75 mph

Illinois - Section 403 Program:

Track: Chicago to Champaign - 140 miles
Chicago to Springfield - 200 miles
Chicago to Quincy - 280 miles
Schedule: 2 daily trains: Chicago to Champaign
4 daily trains: Chicago to Springfield
2 daily trains: Chicago to Quincy
Average Speed: 56 miles per hour
Stations: 22 Stations
Total Costs Per Year: \$3.5 million
Funded: State General Fund

The Department respectfully submits that it is unopposed to the provisions of Senate Bill 184.

Thank you.

Attachments

SANCTIONS

SEC. 1179. Section 307(a) of the Rail Passenger Service Act (45 U.S.C. 547(a)) is amended by adding at the end thereof the following: "Any discontinuance of routes, trains, or services or reduction in frequency of service, which is made by the Corporation shall not be reviewable in any court except on petition of the Attorney General of the United States."

ELIMINATION OF UNNECESSARY REPORTS

SEC. 1180. (a) Section 308(a)(1) of the Rail Passenger Service Act (45 U.S.C. 548(a)(1)) is amended by striking out subparagraph (C).

(b) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended—

- (1) by striking out "and the Commission"; and
- (2) by striking out "reports (or, in their discretion, a joint report)" and inserting in lieu thereof "a report".

FACILITY AND SERVICE AGREEMENTS

SEC. 1181. The first sentence of section 402(a) of the Rail Passenger Service Act is amended by inserting ", which terms shall include a penalty for untimely performance" before the period.

STATE SUPPORTED SERVICES

SEC. 1182. (a) Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended to read as follows:

"SEC. 403. SERVICE.

"(a) Except as otherwise provided in this Act, after the effective date of the Amtrak Improvement Act of 1981, all route additions shall be in accordance with the Route and Service Criteria.

"(b)(1)(A) Any State or group of States, any regional or local agency, or any other person may submit an application to the Corporation requesting the institution of rail passenger service or the retention of a route, train, or service, or some portion of such route, train, or service, which the Corporation intends to discontinue under section 407 of this Act.

"(B) Each application by a State, agency, or person for rail passenger service under this subsection shall contain—

"(i) adequate assurances by such State, agency, or person that it has sufficient resources to meet its share of the cost of such service for the period such service is to be provided;

"(ii) a market analysis acceptable to the Corporation to ensure that there is adequate demand to warrant such service; and

"(iii) a statement by such State, agency, or person that it agrees to pay in each year of operation of such service at least—

"(I) 45 percent in the first year of operation; and

"(II) 65 percent in each year of operation thereafter; of the short-term avoidable losses of operating such service and 50 percent of the associated capital costs.

"(2)(A) The Corporation shall review each application submitted by a State, agency, or person for the institution or retention of service under this subsection to determine whether—

"(i) the application complies with the requirements of paragraph (1)(B) of this subsection; and

“(ii) there is a reasonable probability that the service requested can be provided with the resources available to the Corporation.

“(B) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of paragraph (1)(B) of this subsection.

“(3)(A) The Corporation may enter into an agreement with such State, agency, or person for the institution or retention of such service, in accordance with the funding formula set forth in paragraph (1)(B) of this subsection, if the Corporation determines that such service can be provided with resources available to the Corporation.

“(B) An agreement entered into pursuant to this subsection may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

“(C) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the board of directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation.

“(4)(A) Any funds provided by the Corporation under an agreement with a State, an agency or a person pursuant to this subsection which are allocated for associated capital costs and which are not expended during the fiscal year for which they are provided shall remain available until expended.

“(B) The board of directors shall, after consultation with the appropriate officials of each State that contributes to the operation of service under this subsection, establish the basis for determining the short-term avoidable loss and associated capital costs of service operated under this subsection and the total revenues from such service. In addition, the Corporation shall provide appropriate State officials with the basis for determining such loss, costs, and revenues for each route on which service is operated under this subsection.

“(5)(A) Prior to instituting any fare increase that applies to service provided under this subsection and that represents an increase of more than 5 percent over a 6-month period, the Corporation shall consult with and obtain the views of the appropriate officials of each State to be affected by such fare increase. The Corporation shall provide the officials of each such State with an explanation of the circumstances warranting the proposed fare increase (such as the unique costs of or demand for the services involved).

“(B) A proposed fare increase described in subparagraph (A) shall take effect 90 days after the date the Corporation first consults with the affected States pursuant to such subparagraph. Within thirty days of the initial consultation, the affected State may submit proposals to the Corporation for reducing costs and increasing revenues in connection with service provided under this subsection. Following such thirty-day period, the Corporation, after taking into consideration such proposals as may be submitted by a State, shall decide whether to implement the proposed fare increase in whole or in part.

“(C) Notwithstanding the provision of subparagraph (B) of this paragraph, the Corporation may increase fares pursuant to this paragraph during the first month of a fiscal year if the authorization for appropriations or the appropriations for the benefit of the

Corporation for such fiscal year are not enacted at least 90 days prior to the beginning of such fiscal year, and the Corporation may increase fares pursuant to this paragraph during the 30 days following enactment of any appropriation for the benefit of the Corporation or rescission thereof. Notice of fare increases pursuant to the preceding sentence shall be given by the Corporation to any affected State as soon as possible following the decision to effect such fare increase.

"(6) At least 2 but not more than 5 percent of all revenues generated by each particular route operated under the authority of this subsection shall be dedicated to advertising and promotion of such service on a local level."

(b) The amendments made by subsection (a) of this section shall apply to any agreement entered into under section 403(b) of the Rail Passenger Service Act after October 1, 1981, and to any renewal after October 1, 1983, of any agreement entered into under such section 403(b) prior to October 1, 1981.

OPERATION WITHIN AVAILABLE RESOURCES

SEC. 1183. (a) Section 404(c)(3) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Beginning on the effective date of the Amtrak Improvement Act of 1981, if the Corporation determines that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such amendment."

(b) Section 404(c)(4) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)) is amended to read as follows:

"(4)(A) The Corporation's annual total costs shall not exceed the funds, including grants made under section 601 of this Act, contributions provided by States, regional and local agencies and other persons, and revenues, available to the Corporation within the then-current fiscal year. Commencing in fiscal year 1982, the Corporation shall recover an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 50 percent.

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet the criteria set forth in the appropriate paragraph, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criteria will be met.

"(C) The annual review conducted by the Corporation under subparagraph (B) shall include an evaluation of the potential market demand for, and the cost of providing service on routes or portions thereof, and the potential market demand for, and cost of providing service on, alternative routings. The Corporation shall transmit the results of the annual review to each House of the Congress and to the Secretary of Transportation.

403(b) SERVICE

Background

As a result of changes in the law, state and local governments may obtain service not included in the original system designated by the Department of Transportation by agreeing ultimately to assume 65 percent of the short term avoidable losses of operating the service, as well as 50 percent of related capital costs. Other cost supported arrangements have been used at different times prior to this recent change. To encourage and stimulate interest in supported routes, the burden has been phased over two years, with the local unit assuming 45 percent of the losses for the first year of operation, 65 percent in each succeeding year. The legislation provides an opportunity for state and local agencies to participate in expanded rail passenger service for their citizens and permits its initiation by sharing costs.

Summary of Procedures

Any state, group of states, regional or local agency, or any other person may apply for institution of additional rail passenger service or the retention of a route, train, or service, or some portion of such route, train, or service which Amtrak intends to discontinue. Such application must meet the following requirements:

- contain adequate assurances that the applicant has sufficient resources to meet its share of costs for the period such service is provided;
- include a market analysis acceptable to Amtrak to ensure that there is adequate demand to warrant such service;
- include a statement that the applicant agrees to provide 45 percent of the short term avoidable losses of operating such service in the first year, and 65 percent of these costs in each year thereafter, and that the applicant agrees to provide 50 percent of associated capital costs in each year of operation.

Amtrak must then review each application to determine whether:

- the application complies with the above requirements;
- there is reasonable probability that Amtrak can provide the service requested with the resources available to it.

Assuming an affirmative determination is made in both cases, Amtrak is authorized to enter into a contractual agreement with the applicant.

Any application submitted by a group of states shall be considered in the same manner as an application submitted by a single state and not on the basis of whether each state that is a party to such application meets the requirements state above.

If more than one application is made and all applications are consistent with the above requirements, but all services applied for cannot be provided by the resources of Amtrak, our Board of Directors shall determine which application(s) will best serve the public interest within our available resources. Applications for support of a service deleted from the basic system shall be given preference.

Applications may be submitted for service on new routes, discontinued routes, or for additional frequencies on existing routes. The applicant is also entitled to reimbursement for staff services in an amount equal to 1 1/2 percent of the operating losses and associated capital costs.

NOTES

Constitutional Prohibitions On The Giving Or Lending Of State Funds Or Credit - Not Applicable To Rail Passenger Service Under Section 403(b) of the Rail Passenger Service Act, as amended. _____

Several states have expressed the belief that they are prohibited from participating in 403(b) services because certain provisions in their respective state constitutions prohibit the giving or lending of state funds or credit to or in aid of private enterprises. It should be pointed out to such states that many, if not all, state constitutions contain similar prohibitions. In particular, it should be noted that similar provisions are contained in the constitutions of the states of California, Illinois, Michigan, Minnesota, Missouri, New York and the Commonwealth of Pennsylvania, all of which participate in 403(b) services, thereby enjoying the public benefits of federal matching funds for rail passenger transportation.

The following quotations from the constitutions of the participating states demonstrate that the constitutional prohibition cited by non-participating states is, in fact, the rule rather than the exception.

California Article 4, § 22

. . . and no money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any

other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State; . . .

Illinois Article 8, § 1

(a) Public funds, property or credit shall be used only for public purposes.

Michigan Article 9, § 18

The credit of the State shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

Minnesota Article 11, § 2

The credit of the state shall not be given or loaned in aid of any individual, association or corporation except as hereinafter provided.

Missouri Article 3, § 39

The General Assembly shall not have power:

- (1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation.
- (2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation.

- (3) _____
- (4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law.

New York Article 7, § 8

1. The money of the state shall not be given or loaned to or in aid of any private corporation or association, or private undertaking; nor shall the credit of the state be given or loaned to or in aid of any individual, or public or private corporation or association, or private undertaking . . .

Pennsylvania Article 8, § 8

The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association nor shall the Commonwealth become a joint owner or stockholder in any company, corporation or association.

The foregoing constitutional provisions, as well as the comparable constitutional provisions recently cited by the non-participating states of Arizona, Ohio, Oklahoma, Virginia and Washington, are clearly intended to prohibit the use of state funds or credit for the benefit of private enterprises. However, there is nothing in the wording of any of them which suggests that a state could not lawfully enter into a contract for the

purchase of services from a private enterprise, including the purchase of rail passenger transportation services. Thus, even if Amtrak were a private enterprise, there would appear to be no reason why the non-participating states should not contract for the provision of 403(b) services. However, as noted below, there is significant statutory indicia to demonstrate that Amtrak is not a private enterprise within the meaning of any of the state constitutions referred to, but that it is an instrumentality of the Federal Government which acts as a conduit for the provision of matching funds to the states for the purpose of encouraging and developing a balanced national transportation system.

Although incorporated under the Business Corporation Act of the District of Columbia, Amtrak is subject to the provisions of that Act only to the extent that they are not inconsistent with the Rail Passenger Service Act, as amended, 45 U.S.C. § 501 et seq. which provides, inter alia:

1. Amtrak's basic route system is as designated by the Secretary of Transportation and approved by Congress. 45 U.S.C. § 521.
2. Amtrak is required to "be operated and managed as a for-profit corporation." 45 U.S.C. § 541. The legislative history of this 1978 amended provision makes it clear that it is intended as a directive to govern the policies and actions of management and that the original for-profit status of Amtrak was abandoned as unrealistic.

3. The purpose of Amtrak is to "develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements." 45 U.S.C. § 541.
4. The President of the United States, with the advice and consent of the Senate, appointed the incorporators and original board of directors of Amtrak. Since then, the President has appointed eight of the thirteen members of the board. A ninth member is the Secretary of Transportation, ex officio. 45 U.S.C. §§ 542, 543.
5. The salaries of corporate officers are tied to Level 1 of the Executive Schedule under Section 5312 of Title 5 of the United States Code (with a relaxation of such limitation in the case of the Corporation's president). Only citizens of the United States may serve as corporate officers. 45 U.S.C. § 543.
6. Amtrak is subject to the Freedom of Information Act as though it were a government agency. 45 U.S.C. § 546. It is also subject to the Government in the Sunshine Act by legislative reference.
7. Amtrak may be sued for actions ultra vires the Rail Passenger Service Act only upon petition of the Attorney General of the United States. 45 U.S.C. § 547.
8. Amtrak is required to submit monthly operating reports to the Congress and annual reports to the President and the Congress. 45 U.S.C. § 548.
9. Any state, regional or local agency may request institution of intercity rail passenger service additional to that of the basic system. If certain statutory requirements are

met, Amtrak is required to provide such service in accordance with a funding formula which provides for the use of federal and state funds in prescribed proportions. 45 U.S.C. § 563.

Federal funds for this purpose have been authorized in the following amounts: not to exceed \$23,800,000 in fiscal year 1980; not to exceed \$29,000,000 in fiscal year 1981; not to exceed \$30,000,000 in fiscal year 1982. 45 U.S.C. § 601.

10. Amtrak is authorized to operate commuter rail passenger service under an agreement with a state if the latter agrees to pay the avoidable costs of operation. 45 U.S.C. § 563.
11. Amtrak is a mixed-ownership government corporation under the Government Corporation Control Act (31 U.S.C. § 856) and is subject to audit by the Comptroller General of the United States who reports his findings to the Congress. 45 U.S.C. § 644.
12. The Secretary of Transportation is required to conduct a study of the payment of taxes by Amtrak to the states, taking into account, inter alia, the demand by states for federally funded rail passenger service and the importance to the Nation of maintaining an efficient and reliable national rail transportation system. Pub.L. 96-73, § 125.

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egc

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LEGISLATIVE REPRESENTATIVE

Statement of the Kansas Railroad Association

Presented to the House Committee
on Transportation
The Honorable Rex Crowell, Chairman

Statehouse
Topeka, Kansas
March 17, 1987

* * * * *

Mr. Chairman and Members of the Committee:

My name is Pat Hubbell. I am the Special Representative - Public Affairs for the Kansas Railroad Association. I would like to thank you for giving me the opportunity to express the Kansas Railroad Association's position on Senate Bill No. 184.

The Railroad Association is neither a proponent nor an opponent of this legislation. We appear before the Committee to offer our cooperation, but we also want to urge you to proceed with caution.

With the advent of commercial air travel and the building of the interstate highway system, a precipitous decline in the number of riders using intercity rail service led to the enactment of the Rail Passenger Service Act of 1970 (45 U.S.C. §501 et seq.). The federal operating subsidy for Amtrak in the current fiscal year exceeds \$600 million dollars.

Att. 10

Intercity rail passenger service can be a costly proposition in rail corridors with light population densities. Under Section 403(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. §563), states can agree to subsidize Amtrak service. In fiscal year 1985 California provided subsidy payments of approximately \$3.8 million; Illinois - \$2.5 million; Michigan - \$1.5 million; Missouri - \$2.9 million; New York - \$1.2 million; and Pennsylvania - \$1.2 million. Florida, Louisiana, Alabama, Mississippi, Minnesota and North Carolina discontinued their subsidies to Amtrak in 1985.

Thank you for the opportunity to present our statement on Senate Bill No. 184. I will try to respond to any questions which you may have.

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