

Approved August 4, 1989
Date

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 15, 1989 in room 519-S of the Capitol.

All members were present except:

Representatives Blumenthal and Empson

Committee staff present:

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

Conferees appearing before the committee:

Mr. Jack Tierce, Kansas Corporation Commission
Mr. Donald F. Lindsey, Jr., United Transportation Union
Mr. Tom Whitaker, Kansas Motor Carriers Association
Mr. Pat Hubbell, Kansas Railroad Association
Mr. Richard Dame, Brotherhood of Locomotive Engineers
Mr. John Torbert, Kansas Association of Counties
Ms. Willie Martin, Board of Sedgwick County Commissioners

The meeting was called to order by Chairman Crowell, and the first order of business was a hearing on SB-19 requiring certain vehicles to stop at railroad grade crossings.

Mr. Jack Tierce, Kansas Corporation Commission testified in support of SB-19. (See Attachment 1)

Mr. Donald F. Lindsey, Jr., United Transportation Union, testified in support of SB-19. (See Attachment 2)

Mr. Tom Whitaker, Kansas Motor Carriers Association, testified in support of SB-19. (See Attachment 3)

Mr. Pat Hubbell, Kansas Railroad Association, testified in support of SB-19. (See attachment 4)

Mr. Richard Dame, Brotherhood of Locomotive Engineers, testified in support of SB-19. (See Attachment 5)

The hearing on SB-19 ended.

The next order of business was a hearing on SB-20 providing grants to eliminate hazardous railway-highway crossings.

Mr. John Torbert, Kansas Association of Counties, testified in support of SB-20. (See Attachment 6)

Mr. Pat Hubbell, Kansas Railroad Association, testified in support of SB-20. His written testimony was submitted with that on SB-19. (See Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S Statehouse, at 1:30 ~~a.m.~~/p.m. on March 15, 1989

Mr. Richard Dame, Brotherhood of Locomotive Engineers, did not testify, however, his written testimony in support of SB-20 is included with that of SB-19. (See Attachment 5)

The hearing on SB-20 was concluded.


The next order of business was a hearing on SB-41 concerning construction and operation of a turnpike interchange near the intersection of the turnpike and K-96 highway in Sedgwick County.

Ms. Willie Martin, Board of Sedgwick County Commissioners, testified in support of SB-41. (See Attachment 7)

The hearing on SB-41 ended.

Chairman Crowell announced if there were no corrections or changes to be made, the minutes of the House Transportation Committee meetings for January 10, January 11, January 12, January 17, January 19, January 24, January 26, January 30, and February 8, 1989, would be approved as written.

The meeting was adjourned at 2:00 p.m.


Rex Crowell, Chairman

STATEMENT OF THE
STATE CORPORATION COMMISSION

Presented to the House Transportation Committee
March 15, 1989

Senate Bill No. 19

Mr. Chairman and Members of the Committee:

My name is Jack Tierce. I am the Compliance Administrator of the Transportation Division, State Corporation Commission and the State Chairman for the Kansas Operation Lifesaver Program. The Corporation Commission would encourage the House Transportation Committee to respond favorably to the proposed change in K.S.A. 8-1553.

REGULATORY AUTHORITY CONCERNING
PUBLIC SAFETY

The State Corporation Commission exercises regulatory authority over railroads in Kansas. (Reference K.S.A. 66-1,216) Kansas Statute Annotated 66-1,223 states, "From time to time, the commission shall carefully examine and inspect the condition of each common carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience." Kansas has 6,937 miles of track and 8,761 public grade crossings, which ranks Kansas third in the nation for total miles of track with Illinois and Texas ranked 2 and 1, respectively.

The Commission also regulates common, contract and private motor carriers operating in Kansas pursuant to K.S.A. 66-1,111, except those exempted by K.S.A. 66-1,109. Kansas Statute Annotated 66-1,129(a)(6) requires the Commission to adopt rules and regulations that are consistent with continuation of the federal Motor Carrier Safety Assistance Program and other federal requirements concerning transportation of hazardous materials.

Attach. 1

KANSAS LAW AND FEDERAL REGULATION INCONSISTENCY

The Corporation Commission has adopted 49 Code of Federal Regulation 392.10 (attached) which requires every bus transporting passengers and certain other vehicles transporting hazardous materials to stop at railroad grade crossings with active safety devices even when they are not activated.

K.S.A. 8-1553 presently does not require vehicles to stop at grade crossings with active safety devices when they are not activated.

ENFORCEMENT PROBLEM

The Kansas Highway Patrol, sheriffs and other peace officers of any county are required to enforce the regulations of the Corporation Commission. Since there is the difference between state and federal laws, this leaves confusion in enforcement and compliance of railroad grade crossing laws. This confusion is further enhanced by K.S.A. 66-1,109 which exempts certain common, contract and private carrier from regulation by the Commission.

In the past three years, there has been two accidents resulting in fatalities when a train and a vehicle transporting hazardous material collided.

CONCLUSION

Hopefully, by enacting this legislation accidents involving trains and vehicles transporting hazardous materials will be eliminated. Kansas has been fortunate that past accidents have not included the most important cargo, buses transporting passengers (specifically our children).

Subpart B—Driving of Vehicles

§ 392.10 Railroad grade crossings: stopping required.

(a) Except as provided in paragraph (b) of this section, the driver of a motor vehicle specified in paragraphs (a) (1) through (6) of this section shall not cross a railroad track or tracks at grade unless he first: Stops the vehicle within 50 feet of, and not closer than 15 feet to, the tracks; thereafter listens and looks in each direction along the tracks for an approaching train; and ascertains that no train is approaching. When it is safe to do so, the driver may drive the vehicle across

the tracks in a gear that permits the vehicle to complete the crossing without a change of gears. The driver must not shift gears while crossing the tracks.

(1) Every bus transporting passengers.

(2) Every motor vehicle transporting any quantity of chlorine.

(3) Every motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following markings:

(i) Explosives A

(ii) Explosives B

(iii) Poison gas

(iv) Flammable solid W

(v) Radioactive

(vi) Flammable

(vii) Blasting agent

(viii) Nonflammable gas

(ix) Chlorine

(x) Poison

(xi) Oxygen

(xii) Flammable gas

(xiii) Combustible

(xiv) Flammable solid

(xv) Oxidizer

(xvi) Organic peroxide

(xvii) Corrosive

(xviii) Dangerous

(4) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material as defined in the Hazardous Materials Regulations of the Department of Transportation, Parts 170 through 189 of this title.

(5) Every cargo tank motor vehicle transporting a commodity which, at the time of loading has a temperature above its flash point as determined by § 173.115 of this title.

(6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under exemption in accordance with the provisions of Subpart B of Part 107 of this title.

(b) A stop need not be made at:

(1) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district as defined in § 390.12 of this chapter.

(2) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed.

(3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits the vehicle to proceed across the railroad tracks without slowing or stopping.

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.

(5) An industrial or spur line railroad grade crossing marked with a sign reading "Exempt." Such "Exempt" signs shall be erected only by or with the consent of the appropriate State or local authority.

(Sec. 12, 50 Stat. 531; 49 U.S.C. 1661 note; 49 U.S.C. 304, 1654; 49 CFR 1.49(b) and 301.60) [33 FR 19132, Dec. 25, 1962, as amended at 35 FR 7801, May 21, 1970; 35 FR 1589, Jan. 16, 1970; 40 FR 44554, Sept. 28, 1975; 45 FR 46434, July 10, 1980; 47 FR 47237, Oct. 28, 1982]

36-26-1

united transportation union

DONALD F. LINDSEY, JR.
DIRECTOR/CHAIRMAN

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P O BOX 537
OSAWATOMIE, KANSAS 66064
OFFICE (913) 755-3191
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MARCH 15, 1989

STATEMENT OF DONALD F. LINDSEY JR., DIRECTOR,
KANSAS STATE LEGISLATIVE BOARD
UNITED TRANSPORTATION UNION
IN SUPPORT OF S.B. 19

PRESENTED TO
HOUSE TRANSPORTATION COMMITTEE
HONORABLE REX CROWELL, CHAIRMAN

Mr. Chairman and members of the Committee, I am Don Lindsey, Director of the **Kansas State Legislative Board, United Transportation Union**. I am a duly elected officer, authorized to speak for our some 6,000 active and retired members and their families who reside in the state of Kansas. I appear in support of S.B. 19.

Senate Bill 19 addresses the two greatest fears a railroad employee in the operating crafts has during his tour of duty. Those two fears are a grade-crossing accident involving either a school bus or a vehicle which is transporting hazardous materials.

The United Transportation Union supports any piece of legislation which help eliminate accidents at railroad crossings.

Several years ago the head-end crew on a Missouri Pacific freight train was killed when the driver of a gasoline truck failed to notice the lights flashing at a grade crossing in Martin City, MO. The driver testified that because of the sun in his face he did not see that the lights were operating. Because he failed to stop and make sure, the engineer and the head brakeman were killed instantly upon impact and the subsequent explosion of the gasoline. However, it is unimaginable the terror which had to of went through those two individuals minds seeing the gasoline truck pulling across in front of them and no way to stop.

More important to the United Transportation Union than even the safety of our own members, is the safety of our children. The United Transportation Union believes that our children are our most precious commodity. They represent the future, not only for Kansas, but our country. Anything which is done in the interest of protecting the lives of our children, the United Transportation Union strongly supports.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

In support of S.B. 19 governing
vehicles required to stop at
certain railroad grade crossings.

Presented to the House Transportation
Committee, Rep. Rex Crowell, Chairman;
Statehouse, Topeka, March 15, 1989.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director for the Kansas Motor Carriers Association with offices in Topeka. I appear here today along with Mary Turkington, the Association's Executive Director, representing our member firms and the highway transportation industry.

The Kansas Motor Carriers Association supports legislation at the state level governing the safe operation of motor truck vehicles so long as such legislation is consistent with the Federal Motor Carrier Safety Regulations found in Section 49 of the Code of Federal Regulations, Part 383-399. We believe the intent of S.B. 19 is to establish such uniformity. Attached to my testimony is a copy of 49 CFR 392.10 governing required stops by vehicles at certain railroad grade crossings.

The Senate Transportation & Utilities Committee amended Senate Bill 19 to make the regulations adopted by the Kansas Department of Transportation and the State Corporation Commission consistent with the federal regulations governing vehicles required to stop at certain railroad grade crossings. We requested that amendment in the Senate Committee and strongly support Senate Bill 19 as it is now before you.

We thank you for the opportunity to appear before you today and would be pleased to respond to any questions you may have.

####

§392.10 Railroad grade crossings; stopping required.

(a) Except as provided in paragraph (b) of this section, the driver of a motor vehicle specified in paragraphs (1) through (6) of this section shall not cross a railroad track or tracks at grade unless he first: Stops the vehicle within 50 feet of, and not closer than 15 feet to, the tracks; thereafter listens and looks in each direction along the tracks for an approaching train; and ascertains that no train is approaching. When it is safe to do so, the driver may drive the vehicle across the tracks in a gear that permits the vehicle to complete the crossing without a change of gears. The driver must not shift gears while crossing the tracks.

(1) Every bus transporting passengers,

(2) Every motor vehicle transporting any quantity of chlorine,

(3) Every motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following markings:

(i) Explosives A	(x) Poison
(ii) Explosives B	(xi) Oxygen
(iii) Poison Gas	(xii) Flammable Gas
(iv) Flammable Solid W	(xiii) Combustible
(v) Radioactive	(xiv) Flammable Solid
(vi) Flammable	(xv) Oxidizer
(vii) Blasting Agent	(xvi) Organic Peroxide
(viii) Nonflammable Gas	(xvii) Corrosive
(ix) Chlorine	(xviii) Dangerous

(4) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material as defined in the Hazardous Materials Regulations of the Department of Transportation, Parts 170-189 of this title.

(5) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by §173.115 of this title.

(6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under an exemption issued in accordance with the provisions of Part 107, Subpart B, of this title.

(b) A stop need not be made at:

(1) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district as defined in §390.12 of this chapter.

(2) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed.

(3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits the vehicle to proceed across the railroad tracks without slowing or stopping.

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned,

(5) An industrial or spur line railroad grade crossing marked with a sign reading "Exempt." Such "Exempt" signs shall be erected only by or with the consent of the appropriate State or local authority.

KANSAS RAILROAD ASSOCIATION

PATRICK R. HUBBELL
DIRECTOR-PUBLIC AFFAIRS

920 S.E. QUINCY
P.O. BOX 1738
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913-357-3392

Statement of the Kansas Railroad Association

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

Statehouse
Topeka, Kansas
March 15, 1989

* * * * *

Mr. Chairman and Members of the Committee:

My name is Pat Hubbell. I am Director-Public Affairs for the Kansas Railroad Association. I would like to thank the Chairman and the Committee for giving me the opportunity to express the support of the Kansas Railroad Association for Senate Bills 19 and 20.

K.S.A. 8-1553 was enacted in 1973 as part of the Uniform Act Regulating Traffic and Highways. Senate Bill 19 would amend this statute to require school buses and marked or placarded vehicles transporting hazardous materials to stop at all highway-rail grade crossings, except for those crossings controlled by police officers or flagmen or which official traffic control devices provide notice that a stop is not required. The Senate Committee adopted amendments by the Kansas Motor Carriers Association which makes the legislation consistent with the federal motor carrier regulations. We support the Senate amendment.

Attach. 4

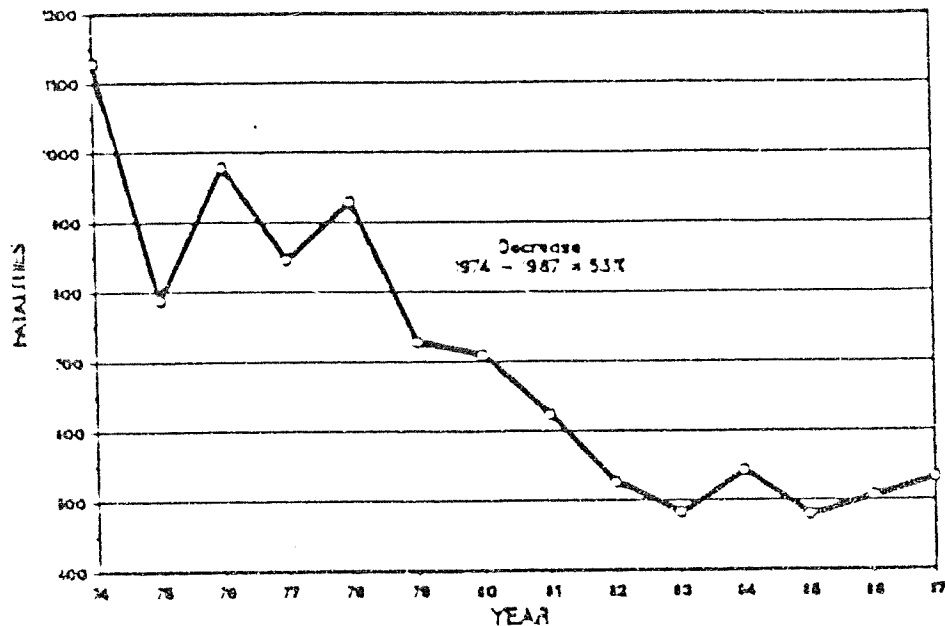
It is our understanding that many Kansas school districts have adopted local policies for school bus operators generally in line with the suggested amendment to K.S.A. 8-1553. We further understand that many companies with vehicles transporting hazardous materials also require their operators to stop at all railroad crossings.

We believe this legislation represents good public policy, particularly as an educational tool. Requiring school bus operators to stop at highway-rail grade crossings, even those crossings protected with active warning devices, will help to reinforce in the minds of school children that alertness and caution is demanded of all vehicle drivers approaching highway-rail crossings.

The Kansas Railroad Association also supports Senate Bill 20 which would designate \$225,000 per year from the state general fund to the railway-highway crossing grant fund. This money would be used as a match of federal funds for the installation of active warning devices at rail-highway crossings. I suggest the Committee consider allowing either the Department of Transportation or the Kansas Corporation Commission the authority to close unsafe crossings in the vicinity of new installations of active warning devices. I have attached five tables regarding railroad-highway accidents which were provided the interim committee last summer.

Thank you for the opportunity to present the Railroad Industry's position on Senate Bills 19 and 20. We encourage your consideration of these bills. I will try to respond to any questions that you may have.

HIGHWAY-RAILROAD MOTOR VEHICLE
FATALITIES AT PUBLIC CROSSINGS

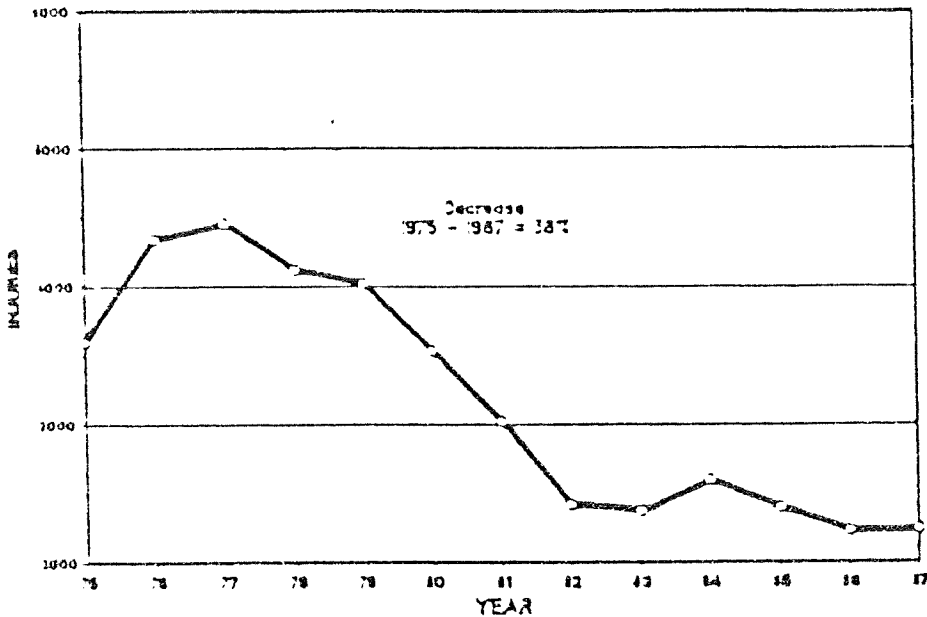


HIGHWAY-RAILROAD MOTOR VEHICLE
FATALITIES
AT PUBLIC CROSSINGS

<u>YEAR</u>		<u>FATALITIES</u>
1974	↓ 53% Decrease ↓	1,129
1975		788
1976		978
1977		846
1978		929
1979		727
1980		708
1981		623
1982		526
1983		483
1984		543
1985		480
1986		507
1987	533 (preliminary)	

SOURCE: FRA Rail-Highway Crossing Accident/
Incident and Inventory Bulletin.

HIGHWAY-RAILROAD MOTOR VEHICLE
INJURIES AT PUBLIC CROSSINGS



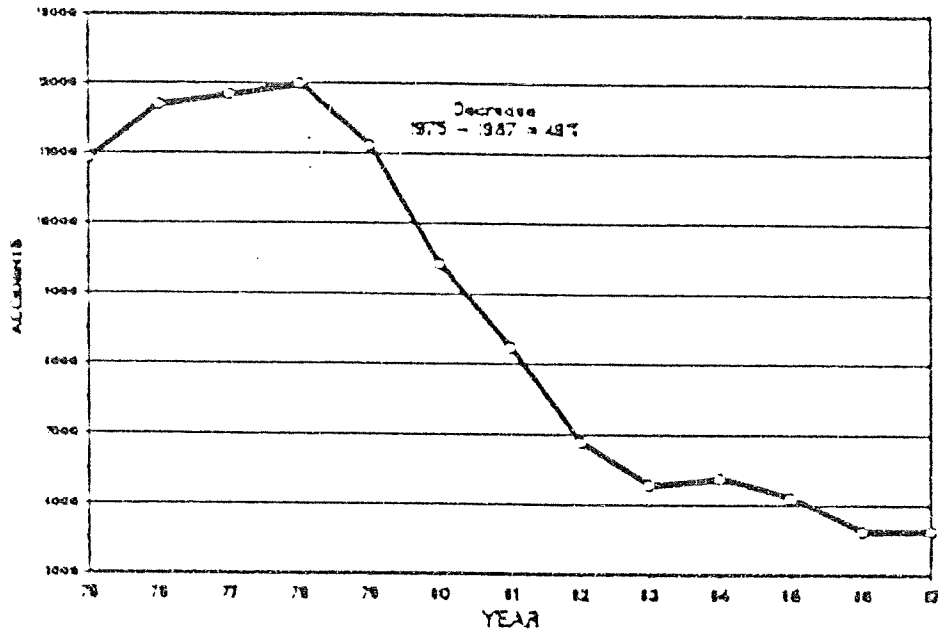
Note: 1974 Not Shown Due To Change in FRA Reporting Criteria.

HIGHWAY-RAILROAD MOTOR VEHICLE
INJURIES
AT PUBLIC CROSSINGS

YEAR		INJURIES
1975		3,500
1976		4,343
1977		4,455
1978		4,120
1979	38% Decrease	4,019
1980		3,534
1981		3,020
1982		2,417
1983		2,372
1984		2,597
1985		2,395
1986		2,227
1987		2,239 (preliminary)

SOURCE: FRA Rail-Highway Crossing Accident/
Incident and Inventory Bulletin.

HIGHWAY-RAILROAD MOTOR VEHICLE ACCIDENTS AT PUBLIC CROSSINGS



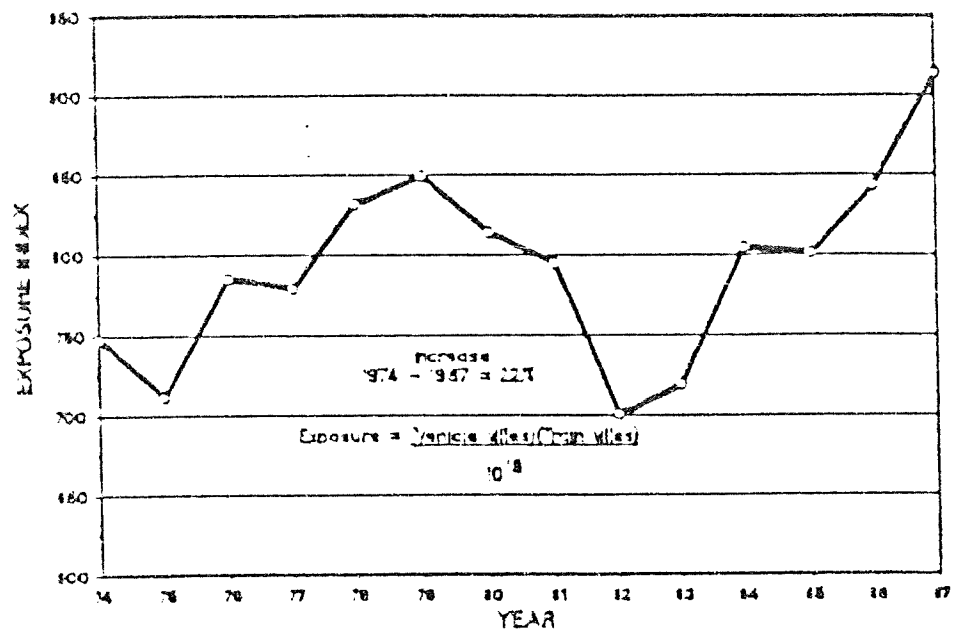
HIGHWAY-RAILROAD MOTOR VEHICLE ACCIDENTS AT PUBLIC CROSSINGS

YEAR	ACCIDENTS
1975	10,925
1976	11,700
1977	11,849
1978	11,999
1979	11,108
1980	9,422
1981	8,232
1982	6,882
1983	6,272
1984	6,370
1985	6,093
1986	5,620
1987	5,628 (preliminary)

↓
49%
Decrease
↓

SOURCE: FRA Rail-Highway Crossing Accident/
Incident and Inventory Bulletin.

POTENTIAL EXPOSURE AT
HIGHWAY-RAILROAD CROSSINGS



POTENTIAL EXPOSURE AT
HIGHWAY-RAILROAD CROSSINGS

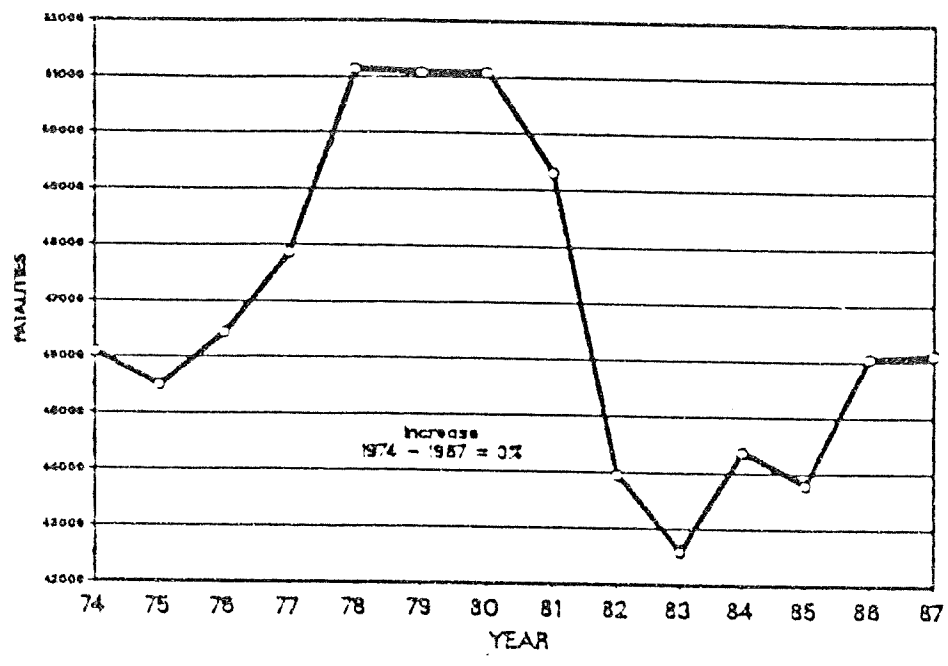
YEAR	#EXPOSURE INDEX
1974	747.66
1975	711.40
1976	785.47
1977	779.18
1978	832.12
1979	849.56
1980	814.15
1981	794.80
1982	700.39
1983	719.33
1984	804.87
1985	801.13
1986	843.46
1987	913.58

↑
22%
Increase
↓

EXPOSURE INDEX = $\frac{\text{(VEHICLE MILES)} \text{(TRAIN MILES)}}{10^{18}}$

#Table revised for 1974-1986.

ALL HIGHWAY MOTOR VEHICLE FATALITIES



ALL HIGHWAY MOTOR VEHICLE FATALITIES

YEAR	FATALITIES
1974	46,078
1975	45,500
1976	46,434
1977	47,868
1978	51,153
1979	51,083
1980	51,091
1981	49,301
1982	43,947
1983	42,596
1984	44,372
1985	43,795
1986	46,056
1987	46,121 (preliminary)

0% Change

SOURCE: FHWA "Fatal and Injury Accident Rates", Accident Analysis Division, Office of Highway Safety.

Brotherhood of Locomotive Engineers

Kansas State Legislative Board

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Statement of the Brotherhood of Locomotive Engineers

Presented to the House
Transportation Committee

The Honorable Rex Crowell, chairman

Statehouse
Topeka, Kansas
March 15, 1989

Mr. Chairman and Members of the Committee my name is Richard Dame. I am Chairman of the Kansas Legislative Board for the Brotherhood of Locomotive Engineers. I would like to thank you for giving me the opportunity to testify in favor of Senate Bill 19 and Senate Bill 20.

The Brotherhood of Locomotive Engineers have always supported legislation that enhances safety at railroad grade crossings. Having worked as a locomotive engineer since 1974, one of the first thoughts I have upon entering the cab of that engine is that I hope I have a successful trip without having a crossing accident or even a close call. Senate Bill 19 brings to light the two types of motor vehicle that cause the greatest concern or anxiety among all railroad employees that might be working on the lead engine of a train. From experience, I can tell you that just the presence of bus or truck carrying hazardous materials on or approaching a railroad grade crossing will start the crew members to fidget in their seats, even crossings protected by electric flashers and gates.

Even though these type of warning devices are designed to be fail safe I have had to stop, before reaching the crossing, and have a flagman protect^{the} crossing before starting

train over it because the warning devices did not work at all or did malfunction in some manner. It does not take much imagination to see what might happen if a train and a bus or school bus would approach this crossing at the same time, both the engineer and the bus driver thinking that the electric flashers and or gates were in working order. The results, well let us hope something like that never happens.

By requiring all buses and trucks carrying hazardous materials to stop at all crossings, under the provisions of Senate Bill 19, you have taken a step toward the elimination of that kind of railroad grade crossing accident, and a step forward in greater safety at grade crossings.

The Brotherhood of Locomotive Engineers also supports Senate Bill 20. The money that^{would} be provided by this fund would be a tremendous help in the protection of crossings across the state that are not yet protected by electric flashers and gates.

Mr. Chairman, I would thank you again for allowing me the opportunity to appear before your committee in support of Senate Bills 19 and 20. I would attempt to answer any questions you or any member of the committee might have.



"Service to County Government"

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Dixie Rose
Butler County Register of Deeds
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NACo Representative
Joe McClure
Wabaunsee County Commissioner
(913) 499-5284

Executive Director
John T. Torbert

Testimony
March 15, 1989

To; House Transportation Committee

From; John T. Torbert
Executive Director

Subject; Senate Bill 20

The Kansas Association of Counties supports Senate Bill 20. The success of the railroad crossing safety program in Kansas was well documented before the Special Committee on Transportation over the interim.

There are still hazardous railroad crossings across the state that have not been improved because of lack of available funding. As pointed out in the supplemental note, local governments must match federal funds at a level of 10%. Railroads cannot legally be required to pay the match, even though they do often participate in the match requirement on a voluntary basis. The problem at the local level is that many counties are experiencing a shortage of available funds for any type of transportation related activity.

Any action that the state can take to help us meet these match requirements is positive and will help speed the process of improving hazardous crossings. We encourage the committee to report the bill favorably and recommend it for passage by the full house.

I thank the committee for you time and would be happy to respond to questions.

TSJHTRAN

Attach. 6



SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL COORDINATOR

WILLIE MARTIN

COUNTY COURTHOUSE • SUITE 315 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7552

DATE: MARCH 15, 1989

TO: HOUSE TRANSPORTATION COMMITTEE

FROM: WILLIE MARTIN
SEDGWICK COUNTY

REF: SENATE BILL 41

Mr. Chairman, and Members of the Committee,

I am Willie Martin representing the Board of Sedgwick County Commissioners

Sedgwick County respectfully requests your support of Senate Bill 41. This legislation provides the authority for the Kansas Turnpike Authority (KTA) and Sedgwick County to contract for the construction of an interchange at the intersection of the Kansas Turnpike and K-96. Such an interchange would be heavily utilized, with more than enough toll revenue to pay the operational costs of the interchange.

Sedgwick County has an established track record regarding interchange projects in cooperation with the KTA. The County provided the initial financing for the new interchanges near Andover and Mulvane, based on similar legislation enacted in 1982. These two projects have greatly increased the utility of the Kansas Turnpike to the Sedgwick County area. Legislation was passed in 1987 providing the same funding mechanism and construction of an interchange on the Kansas Turnpike near Haysville, at 71st Street South.

We would respectfully request the Committee's support of this legislation.

Attach. 7