Approved 3-19-91
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Herman G. Dillon at
Chairperson

1:34 XXX/p.m. on March 5, 1991 in room 519-S of the Capitol.

All members were present XXXXX:

Committee staff present:

Hank Avila - Legislative Research
Bruce Kinzie - Revisor of Statute
Jo Copeland - Committee Secretary

Conferees appearing before the committee:

Representative Joan Adam
Vic Moser - President, Flatland Professional Services, Inc., Hutchinson Ks.
Tom Tunnell - Executive Vice-President Ks Grain and Feed Assoc.
Joe Lieber - Ks Cooperative Council
Don Swisher - Farmway Co-op, Inc., Beloit, Ks
Bill York - General Mgr., Andale Farmers Co-op
Lynn Rogers - Public Affairs Mgr., Co-Bank Natl. Bank for Cooperatives
Al Brensing - President Stafford Co. Flour Mills Co.
Robert Walker - Chairman, SEK Cities Coalition
Pat Hubbell - Ks Railroad Assoc.
Gary Stotts - Sec. of KDOT

Meeting called to order by Chairman Dillon.

HB 2348 - Establishing the rail service improvement program.
HB 2349 - Concerning the railroad rehabilitation loan and loan guarantee fund.

Chairman Dillon introduced Representative Joan Adam who testified in support of HB 2348 and HB 2349. (Attachment 1)

Chairman Dillon introduced Vic Moser who testified in support of HB 2348 and HB 2349. (Attachment 2)

Chairman Dillon introduced Tom Tunnell who testified in support of HB 2348 and HB 2349. (Attachment 3)

Chairman Dillon introduced Joe Lieber who introduced Don Swisher who testified in support of HB 2348 and HB 2349. (Attachment 4)

Chairman Dillon introduced Bill York who testified in support of HB 2348 and HB 2349. (Attachment 5)

Chairman Dillon introduced Lynn Rogers who testified in support of HB 2348 and HB 2349. (Attachment 6)

Chairman Dillon introduced Al Brensing who testified in support of HB 2348 and HB 2349. (Attachment 7)

Chairman Dillon introduced Robert Walker who testified in support of HB 2348 and HB 2349. (Attachment 8)

Chairman Dillon introduced Pat Hubbell who presented an amendment in regard to HB 2348 and HB 2349. (Attachment 9)

Chairman Dillon introduced Gary Stotts who wished to make comments on HB 2348 and HB 2349. (Attachment 10)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,

room 519-S Statehouse, at 1:34 XXm./p.m. on March 5, 1991.

Hearing ended on HB 2348 and HB 2349.

Final action on the following bills:

HB 2437 - Providing an extension for renewal of drivers licenses for certain persons.

Representative Shallenburger moved to amend HB 2437. (Attachment 11) Representative Gross seconded. Motion carried.

Representative Shallenburger moved to pass HB 2437 as amended. Representative Everhart seconded. Motion carried.

HB 2434 - Concerning the registration of antique vehicles.

Representative Gross moved to pass HB 2434 favorable and Representative Everhart seconded.

Discussion followed.

Representative Gross and Representative Everhart withdrew their motion on HB 2434.

Representative Smith moved to amend HB 2434 by striking Lines 20,21,22, Any antique vehicle used to transport passengers for hire or materials in excess of 500 pounds shall not be eligible for registration as an antique vehicle. Representative Freeman seconded. Motion carried.

Questions and discussion followed.

Representative Garner moved to table HB 2434 and Representative Correll seconded. Motion carried.

HB 2435 - Relating to driver's licenses; extending the period for suspensions and revocations under certain circumstances.

Representative Shallenburger moved to amend HB 2435. (Attachment 12) Representative McClure seconded. Motion carried.

Representative McKechnie moved to pass HB 2435 as amended. Representative Correll seconded. Motion carried.

HB 2436 - Concerning driver's licenses; requiring licensee to provide a mailing address in addition to a residence address.

Representative McKechnie moved to amend HB 2436. (Attachment 13) Representative Correll seconded. Motion carried.

Representative Correll moved to pass HB 2436 as amended. Representative Everhart seconded. Motion carried.

HB 2482 - Concerning notice of security interest.
HB 2483 - Amending the vehicle dealers and manufacturers licensing act.

Representative Shallenburger moved to table HB 2482 and HB 2483. Representative Shore seconded. Motion carried.

Meeting adjourned at 3:10 p.m.

GUEST LIST

COMMITTEE: HOUSE TRANSPORTATION COMMITTEE DATE: 3-5-91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
William F. York	Andale Ks	ATSF Shippers Assn
Vic Moser	Hutchinson, KS	Flatland [illegible]
Lynn Rogers	Wichita, KS	CoBank
Alan Steppat	Topeka	Pete McGill & Associates
Diane Gruver	Topeka	Ks Co-op Council
Byron [illegible]	Beloit, Ks	Farmway Co-op
[illegible]	Topeka	Ks. St. Bd of Ag
Joe Lieber	Topeka	Ks Co-op Council
Bob Anderson	Topeka	Mid States Port Authority
Chuck Stones	"	KBA
Kathy Taylor	"	"
[illegible]	Beloit	Farmway Coop
Woody Moses	Topeka	KAPA
Pat Hubbell	Topeka	Kansas RR Assn
Tom Whitaker	Topeka	Ks Motor Carriers Assn
Mary E. Turkington	Topeka	Ks. Motor Carriers Assn
Leroy Jones	Lenexa	BLE
Bill Morgan	Chanute	City-RR's
Larry McGinnis	Coffeyville	City RR's
[illegible]	Coffeyville	City Mgr
[illegible]	[illegible]	City Mgr
Gary Stotts	Topeka	KDOT
John Scheirman	Topeka	KDOT

①

STATE OF KANSAS

JOAN ADAM
REPRESENTATIVE, FORTY-EIGHTH DISTRICT
305 NORTH TERRACE
ATCHISON, KANSAS 66002-2526

TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: LEGISLATIVE JUDICIAL AND CONGRESSIONAL APPORTIONMENT
MEMBER: APPROPRIATIONS
TAXATION
COMMERCIAL & FINANCIAL INSTITUTIONS

Thank you Mr. Chairman and members of the committee for the opportunity to discuss these two bills with you.

It is no secret to Kansans that railroad abandonments have occurred with increasing frequency, in their state. More than 3000 miles of railroad lines have been abandoned in Kansas - nearly 600 miles abandoned since 1980. Should the present rail policies continue it is estimated that Kansas could lose an additional 3000 more miles of rail-line within the next 2 decades.

The most central reason for these abandonments has been changes in rail policy at the federal level. The 4R Act of 1976 began the deregulation of railroads and was followed by the Staggers Rail Act of 1980. The Staggers Act made fundamental changes in the way the Interstate Commerce Commission evaluated railroad abandonments. No longer was public convenience and necessity considered as great a factor in determining which lines could be abandoned. Profit factors were given much greater weight.

The abandonments have caused economic hardships to many areas of Kansas. An abandonment can cause a local industry to close, causing unemployment and a loss of economic base as well as population. An abandonment can affect land values and can erode the tax base of local units of government. Abandonments cause difficulties for farmers and shippers who in some cases have inadequate alternatives to move their product to market and in other cases must pay significantly higher trucking rates to get their product to market.

In short areas that experience abandonments become less attractive to industry and ultimately less viable as communities.

HB 2348 and 2349 are intended to reverse this trend and to provide a

House Transportation
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ATTACHMENT 1-1

mechanism to keep the most viable lines operating.

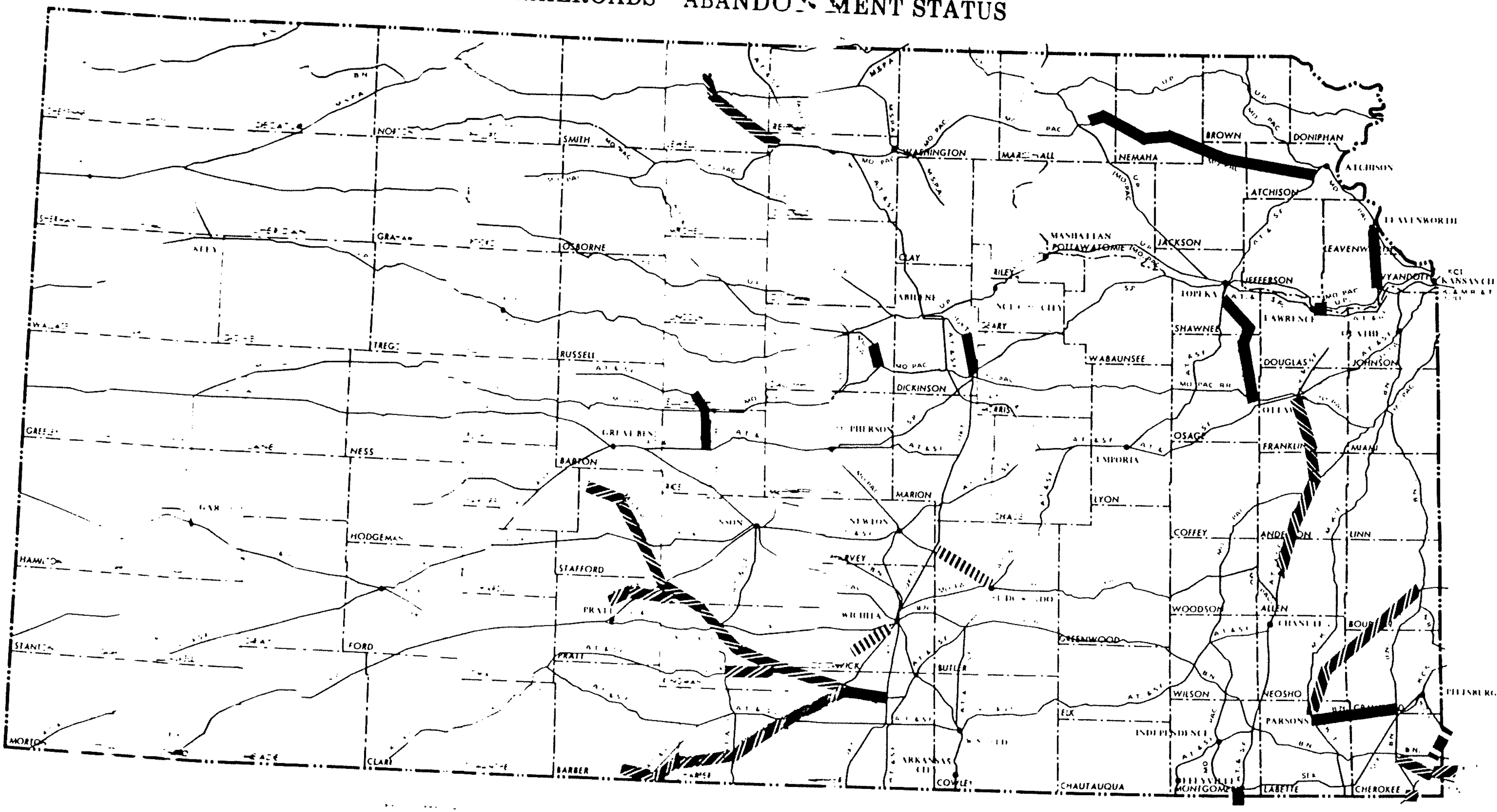
HB 2348 establishes a rail service improvement program within KDOT for the purpose of improving rail service in the state. The bill gives the secretary more authority to work with - negotiate with shippers, existing railroads to keep viable rail lines operating or if appropriate to assist shippers or others in purchasing shortlines for regional use. The bill allows KDOT to appear before regulatory bodies in support of improved rail service.

HB 2349 authorizes loans and loan guarantees not to exceed $5 million in any fiscal year for the purpose of facilitating the financing acquisition or rehabilitation of railroads. Any allocation from this fund however must first be approved by the legislature, much as the loan guarantee for the Mid-States Port Authority was approved last year.

Mr. Chairman, I have indicated the need that exists for these bills and the general interest of each bill.

I would like now to briefly describe the attachments with my testimony, and make a few comments about the specific language of the bills.

KANSAS RAILROADS - ABANDONMENT STATUS



Category I

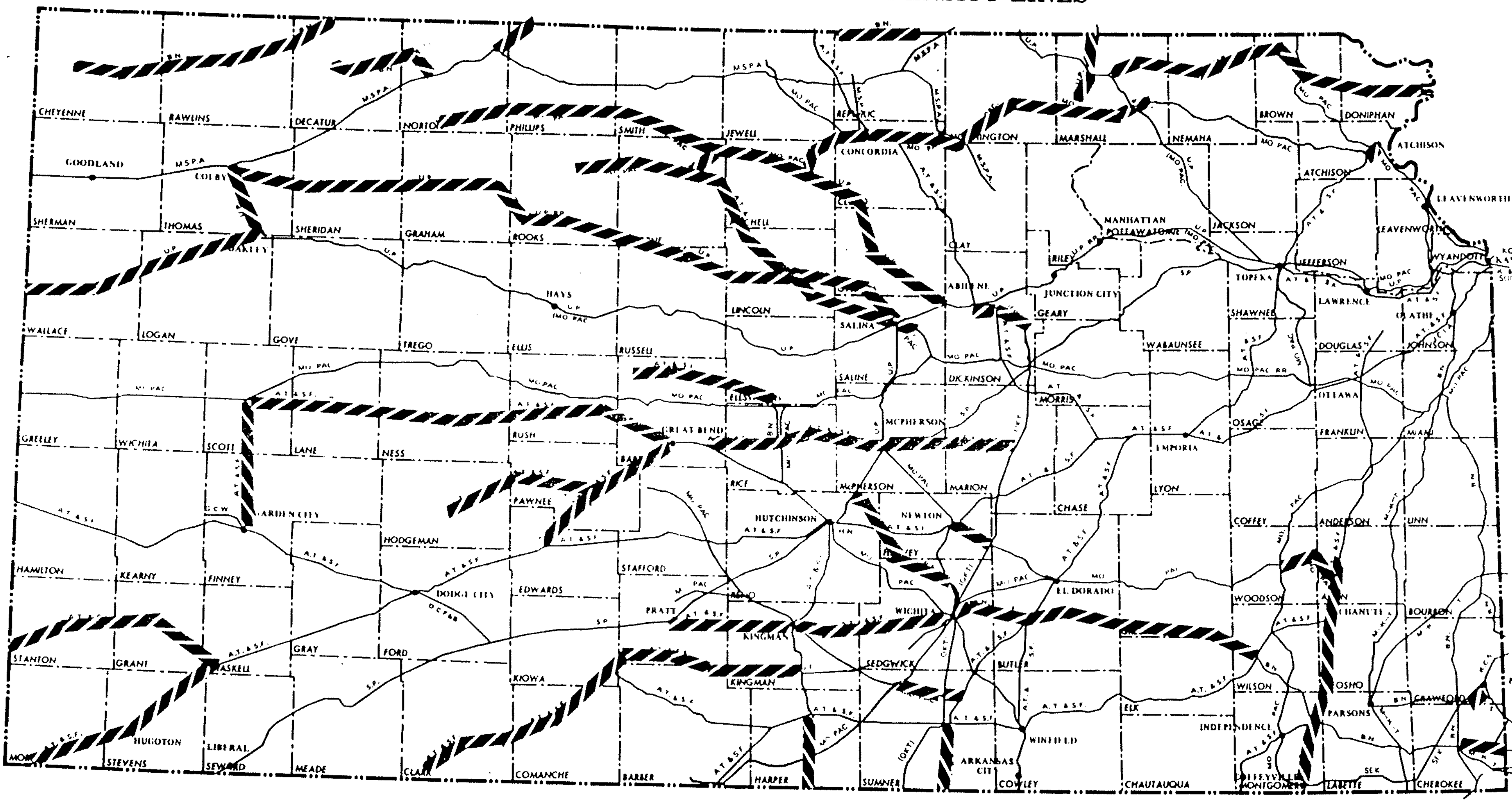
Category II

Category III

Approved for Abandonment

Kansas Department of Transportation
Bureau of Transportation Planning
April 1989

KANSAS RAILROADS - LIGHT DENSITY LINES *



KEY TO ABBREVIATIONS

A.T. & S.F.	ATCHISON TOPEKA & SANTA FE
B.N.	BURLINGTON NORTHERN
D. & R.G.W.	DENVER & RIO GRANDE WESTERN
D.C.F. & B.	DODGE CITY, FORD & BUCKLIN
G.C.W.	GARDEN CITY WESTERN
H.N.	HUTCHINSON AND NORTHERN
J.C.I.A.	JOHNSON COUNTY INDUSTRIAL AIRPORT RAILROAD
K.C.S.	KANSAS CITY SOUTHERN
K.C.T.	KANSAS CITY TERMINAL RAILWAY
K. & M.R. & T.	KANSAS & MISSOURI RAILWAY & TERMINAL
M.S.P.A.	KYLE (MID-STATES PORT AUTHORITY)
M.K.T.	MISSOURI - KANSAS - TEXAS
M.P.	MISSOURI PACIFIC
N. & W.	NORFOLK & WESTERN
O.K.T.	OKLAHOMA-KANSAS-TEXAS
SEK	SOUTHEAST KANSAS
SOO	SOO - LINE
S.P.	SOUTHERN PACIFIC
T.N.W.	TEXAS NORTHWESTERN
U.P.	UNION PACIFIC

* Carrying less than one million gross ton-miles per mile annually

Kansas Department of Transportation
Bureau of Transportation Planning
April 1989

Iowa

Rail Mileage: 5,661 miles (track not route)

Class I Railroads: Chicago and North Western; Burlington Northern; Soo Line; Norfolk and Western; Atchison, Topeka and Santa Fe; Union Pacific and Missouri-Kansas-Texas

Major Commodities Transported by Rail: Grain, processed food products, coal and defense-related materials

Abandoned Miles: 3,057 since 1975

State Rail Programs and Policies

The Iowa Department of Transportation (DOT) administers a comprehensive rail program. The state's major rail initiative is the Rail Assistance Program which was created by the Iowa legislature in 1974 and requires that rehabilitation costs be shared by all parties that benefit from rail -- railroads, shippers and the state.

The Rail Assistance Program received its first appropriation of $3 million in 1974. Since that time, 42 contracts, totaling $121.5 million have been executed to rehabilitate 1,480 miles of rail and track in Iowa. Of the $121.5 million, $22 million were state funds which leveraged another $25 million in federal Local Rail Service Assistance funds; $33 million were shipper and rail user funds and $41 million were contributed by the railroads.

Shipper participation in the Rail Assistance Program is in the form of no-interest loans to railroads. In most cases, railroads repay shippers according to the number of cars originating and terminating on the rehabilitated line. This arrangement has worked well because it encourages shippers to use the rail line.

The Iowa DOT participation has been 40 percent of the project, of which 20 percent is a non-reimbursable grant and 20 percent a no-interest loan. Railroads generally are required to repay the state within six years. Currently, DOT officials are attempting to make this part of the program more flexible so that the state may have the option of contributing a greater percentage of aid for certain projects.

Rail lines are selected for rehabilitation based on their potential economic viability, rail carrier and shipper interest, as well as project eligibility under state and federal regulations. Iowa Department of Transportation (DOT) staff thoroughly analyzes each rehabilitation candidate and selects projects based on funding availability, a favorable benefit/cost ratio and agreements for financial participation

(Iowa, cont'd)

by other sources. DOT staff also conducts contract negotiations between railroads and shippers and inspects projects to ensure that contract terms are met.

Another major feature of the state's rail program is the Iowa Railway Finance Authority (IRFA). This five member board was established in 1980 in response to the bankruptcies of the Rock Island and Milwaukee Road Railroads. The IRFA has a wide range of authority, including the ability to issue bonds for rail improvement projects, acquire rail lines, refinance loans, and own and operate a rail facility.

The IRFA has not been very active due to funding problems in recent years. The taxes which were supposed to have funded IRFA have been found in violation of the 4R Act (Railroad Revitalization and Regulatory Reform Act). Currently, the only sources of income for IRFA are repayments from previously funded projects and interest earned on IRFA's bank deposits.

Iowa also has an active program to assist shippers and communities with rail line abandonment procedures. The Iowa Department of Transportation is the "designated state agency" in all railroad abandonment proceedings, and, subject to the direction and approval of the Iowa Transportation Commission, is responsible for the filing of all comments and pleadings before the ICC. For each abandonment application, the Iowa DOT holds public meetings to familiarize the community members and shippers with the abandonment process. In some cases, the Department helps in the organization of shipper associations to explore alternatives to abandonment.

Beginning in 1989, the Department has included in the comments it submits to the Transportation Commission an analysis of the potential viability of a particular rail line for short line operations. This way, the members of the Commission are provided with a more complete illustration of the capability of a particular line.

Iowa DOT officials report that their rail assistance initiatives are working well. Rail service has been preserved in many parts of the state and railroads have been helped through some very difficult times.

Oklahoma

Rail Mileage: 4,362 miles

Class I Railroads: Burlington Northern; Atchison, Topeka and Santa Fe; Kansas City Southern; Union Pacific; Oklahoma-Kansas-Texas; St. Louis-Southwestern

Major Commodities Transported By Rail: Agricultural products, mined products, refined energy products, energy exploration materials and equipment, manufactured goods and military supplies

Abandoned Miles: 3,700 since 1902

State Rail Programs and Policies

Oklahoma is one of 18 states in the country which administers a rail line acquisition program. The state began acquiring rail properties in 1981 as a result of the Rock Island Railroad's cessation of service in 1979 and a major Missouri-Kansas-Texas abandonment several years earlier. The acquisitions were authorized under the Oklahoma Railroad Revitalization Act of 1978.

Approximately $22 million in state funds have been used to acquire 610 miles of rail line in Oklahoma. Three railroads operate on the state system under lease agreements. Most of these agreements are for 30 year terms and are designed so that the railroads will ultimately own the rail line. Generally, the railroads are responsible for any maintenance or rehabilitation projects for the rail lines on which they operate.

The payments made to the state by the railroads for leases are channeled into the state's Railroad Maintenance Revolving Fund. Approximately $1.2 million were returned to the state from the leases between 1981 and 1986. Income from lease payments will increase substantially throughout the term of the lease agreements due to escalating payments as the lease term matures. The revolving fund monies are used for major improvements (flood damage repairs, etc.) on the state-owned system.

Another source of income for the revolving fund is the state's tax on railroad cars that are foreign to the state. This "railroad freight car tax" generates an average of $1 million annually to support Oklahoma's rail program. State-owned tracks are the only rail lines eligible for the revolving funds due to the Oklahoma constitution which prohibits the state subsidy of private sector railroads.

In addition to the state contribution to rail line improvements, shippers assist the railroads by maintaining

(Oklahoma, cont'd)

tracks on sidings and spurs. The railroads reimburse shippers through credits on shipments. This arrangement benefits both the railroad and shipper because it encourages rail line usage.

Oklahoma Department of Transportation officials report that the acquisition program has worked well for the state. The state stands to make a profit from each of the acquisitions under the terms of the lease agreements. Much of the success of the program can be attributed to the state DOT's effort to run the program like a business rather than a bureaucracy. In addition, the DOT recognizes and respects the fact that railroads are "for profit" corporations which must remain profitable to survive. Considerable effort is made to treat the railroads with the same consideration as any other major industry. State officials stress that the private sector should be operating the railroads, and, because of the lease-purchase nature of the agreements with railroads, the state intends to some day get out of the railroad business.

Loss of train tracks threatens Kansas towns

Continued from A-1

on jeopardized rail lines, said the nation's policies were skewed so that eventually all will pay for the loss of rail service.

"All of us as citizens will pay higher taxes for highways because of abandonments," he said. "Instead of spending billions on highways, a lot of this money should be spent on railways. The rural community is being hurt bad throughout the United States."

Nest eggs lost

The trend toward rail line abandonments is a matter of local economics; lines are cut where traffic is light. But it is also tied to the frenzy of mergers.

Railroad companies, chiefly the Santa Fe Railway, have had to spend millions to fend off takeover attempts. To save money, they jettison rail tracks.

This year, Santa Fe has put about 715 miles of track up for potential abandonment. Burlington-Northern Railroad has proposed cutting 35 miles, and Union Pacific Railroad has placed 130 miles on a list for abandonment.

"We in rural Kansas are having our nest eggs taken away," said Kim Barnes, whose Garfield Co-op elevator will lose rail service under a proposal. "The government has quite a comprehensive highway program. But will our highways survive if all these rail lines are abandoned?"

Questions like that have drawn attention from Kansas lawmakers, especially from Sen. Nancy Landon Kassebaum and Rep. Pat Roberts, but also from Sen. Bob Dole and Rep. Dan Glickman.

Kassebaum has introduced a bill in Congress intended to make the federal Interstate Commerce Commission more carefully weigh the effect on small towns before rail service is abandoned.

The Kansas Republican also complained that railroads have neglected basic maintenance on their tracks for decades, leaving some so wobbly that trains cannot travel on them faster than 8 mph.

Late last week, Kassebaum wrote to Kansas Gov. Mike Hayden, urging him to reactivate a special rail service team of experts to see whether the state can help maintain service or help sell lines to smaller operators.

Dwindling business

As a result of the proposed abandonments, anxiety is common along the path of towns linked by threatened rail lines.

In Kingman, west of Wichita, Exxon Chemical Co., at the crossroads of several Santa Fe lines up for abandonment, has put on hold plans for a five-year, $10 million expansion, said Gene Lamb, company president.

Trucking its products would raise costs 15 percent, pricing its twine far above current market competitors, Lamb said.

If Kingman loses rail service, Exxon Chemical might move out of the state.

In the southeastern Kansas town of Humboldt, the Monarch Cement Co. has joined the struggle to keep rail service if the Santa Fe gives up the line.

Monarch makes cement shipped throughout Kansas along Santa Fe's lines. Because of Santa Fe's unreliability, the company has seen its business dwindle from shipping 2,900 railroad cars in 1980 to about 200 this year, Monarch owner Marvin Groff said.

Pace accelerates

Abandoning rail lines is not new. But the pace throughout the 1980s was much quicker than in previous decades, a trend that will probably continue, experts say.

In the past five years, 11,570 miles of track have been abandoned, leaving about 160,000 miles nationwide, according to the Interstate Commerce Commission.

Kansas currently has 6,800 miles of track, down from the peak in 1940, when it had 13,000 miles crisscrossing the state. A 1989 report to Hayden said Kansas had lost 573 miles of track since 1980.

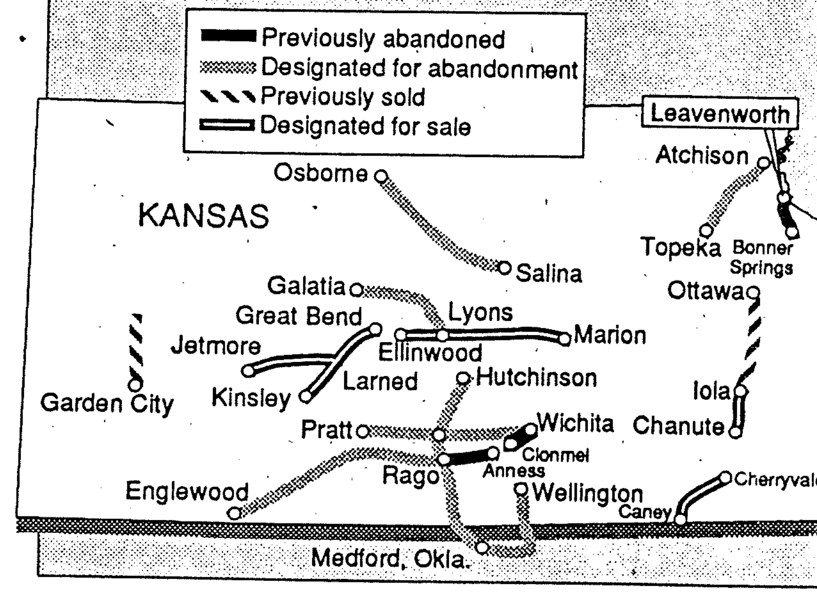
Grimly, the report warned that "Kansas could lose some 3,000 miles — or nearly half the total state rail system — within the next several decades."

Though short-line railroads can come in where big operators fail — because they often are not bound by the same expensive labor agreements — development of short-line railroads is no sure thing.

Financing must be found, tracks must be repaired and local operators willing to work years with scant profits must take the risk, said John Scheirman, head of the state Department of Transportation's Bureau of Rail Affairs.

Kansas railroad closures

Since 1980, railroad companies have abandoned 573 miles of track in Kansas. The companies plan to sell or abandon an additional 900 miles of track in the next few years. Some experts estimate that Kansas could lose nearly half its remaining tracks in the next few decades.



The Star

Flight of railroads from Kansas jeopardizes towns, businesses

573 miles of tracks have been abandoned in the past 10 years.

By JAKE THOMPSON
Washington Correspondent

WASHINGTON — A century ago, the trains settled Kansas. Today they are unsettling it.

In the 1870s railroads stretched an iron lifeline across America and recruited Russians, Germans, Czechs and others to establish new lives and new Kansas towns, such as Newton, Halstead, Great Bend and Larned.

"The railroads made towns, killed towns," says Connie Menninger, a rail scholar at the Kansas State Historical Society.

But today, the railroad companies aren't making towns and in fact plan to abandon a record number of miles of track in Kansas, about 900 miles, in the next few years.

Such plans are causing great consternation across the state.

Though no one has studied whether the loss of rail service has contributed to recent declines in the rural Midwestern population, it can't help. Grain elevator managers think they will lose money shipping grain by truck, and some businesses simply are contemplating a move out of the state.

The abandonments also are stirring questions in Topeka and in other Great Plains states about a nation that allowed free enterprise to build an extraordinary web of train tracks, which were then rendered nearly useless by government policies that subsidized massive highway and interstate construction.

Jim Irlandi, a Wichita shipping consultant who has formed an association of concerned shippers

See **LOSS, A-22,** Col. 1

1-10

FLATLAND

FLATLAND PROFESSIONAL SERVICES, INC.
115 West 2nd Street, Suite B • Hutchinson, Kansas 67501

TESTIMONY OF VICTOR C. MOSER

March 5, 1991

CONCERNING: Senate Bills 265 and 266 and House Bills 2348 and 2349

SUMMARY

Rail service is essential to the State's economic well-being. The benefits are access to markets for Kansas products, competitive transportation rates, reduction of wear and tear on the highways, and contribution to local tax revenue.

Shortline railroading is legitimate. Shortlines are an integral part of the national rail system.

There is need for this legislation. The biggest problem for a new shortline is capital - cash for purchase and rehabilitation of track which is usually run down.

The State should be involved in rail financing in order to establish a balanced transportation system. The legislation should provide adequate funding and the necessary authority.

The objective of the program should not be to save all Kansas branchlines. Economic viability should be the criteria.

Recommendations:

1. The State should never own or operate a railroad except as a receiver of property due to a defaulted loan. While authority is needed in case the State becomes a receiver of property due to default of a loan, the wording should be amended to restrict ownership to a temporary status maintained only until the property can be disposed of by sale or abandonment. Reference: SB 266 & HB 2348, Sections 4(a), 4(e)-(h) and 8.

2. Loans or loan guarantees should be restricted to financing, acquisition, or rehabilitation. My concern is use of the term "maintenance" which may imply operating subsidy. Reference: SB 266 & HB 2348, Sections 4(g), 4(i), and 7(a).

3. The level of funding needs to be adequate based on the Kansas Department of Transportation's estimates. Reference: SB 265 & HB 2349, Section 1(b)

4. Public input should be sought in the development and administration of program rules and regulations. Reference: SB 266 & HB 2348, Sections 4(b) and 5(c).

(316) 662-3059 • Fax (316) 662-2348

House Transportation
3-5-91
ATTACHMENT 2-1

TESTIMONY OF VICTOR C. MOSER
President, Flatland Professional Services, Inc.
Hutchinson, Kansas
March 5, 1991

CONCERNING: Senate Bills 265 and 266 and House Bills 2348 and 2349

Thank you for the opportunity to address this legislative committee on Senate Bills 265 and 266 and their counterparts, House Bills 2348 and 2349. I commend you for your interest in the improvement and continuation of rail service in Kansas.

There is no doubt rail service is essential to the State's economic well-being. Rail service provides access to markets for Kansas products that would not otherwise be available and promotes competitive transportation rates. Heavy traffic moving on rail saves wear and tear on the highways. Not to be overlooked is that railroad property is an important component of the local tax base.

So that you will know me, I have had twenty-two years of experience in transportation. I was employed as a civil engineer by the Kansas Highway Commission in 1969 in varying capacities as road designer, urban planner, and at one time had responsibilities for planning for all the non-highway modes of transportation. In 1978, I became the State's second rail planning official and shortly after was appointed by the Governor to head an inter-agency task force charged with finding solutions for restoration of service on the failed Rock Island Railroad. In performing that duty, I was actively involved in a cooperative effort with other states, our Congressional delegation, rail shippers, communities, and railroads.

In 1983, I founded Flatland Professional Services in Hutchinson to offer transportation consulting services. My client base extends from

Idaho to Illinois. I have contracted with the Mid-States Port Authority, the Dodge City, Ford and Bucklin Railroad, the Santa Fe Railroad, the Kansas Department of Transportation, State Board of Agriculture, and rail shippers for various services. I have testified before the U.S. Senate Committee on Transportation and Utilities, the Interstate Commerce Commission, and the Kansas House Transportation Committee. I am a member of the State Advisory Committee on Rail Planning and have served as its chairman. I am the contributing transportation editor for "Feed and Grain Times," a trade publication with a national circulation. Two articles written for that publication are attached for background information on shortline railroading.

These bills concern funding for railroads, but their primary focus will be on shortlines. Before I address the bills specifically, I wish to establish that shortline railroading is not only legitimate but an astoundingly good way to continue rail service. Shortlines have always been with us but in recent years, they have achieved stature as profitable ventures which maintain a service to the public that would otherwise be lost. Their numbers are growing throughout the United States as major railroads reduce track mileage.

Shortlines have the attention of the major railroads which are now interested in creating cooperative arrangements to assist shortlines in recapturing markets lost to trucks and in establishing new markets. One railroad, the Southern Pacific (operating in Kansas as the St. Louis Southwestern from Liberal to Kansas City and as the Rio Grande from Tribune to Kansas City) has established a new shortline sales and marketing group with the express mission of at least doubling the revenue contributed by their 92 shortline connections. Southern

Pacific discovered these shortlines deliver in excess of $120 million in total revenue without any assistance in marketing or otherwise. Southern Pacific offers to help them with rate-making, electronic data interchange, employee safety training, as well as the opportunity to purchase SP's used equipment and combine on bidding for necessary materials such as crossties and rail.

My point is that shortlines are no longer foundlings. They are being welcomed into the national rail system. Their advantages are in reduced cost of operation and intensive local marketing. An infrequent shipment of a few cars might be troublesome to a major railroad, but it is bread and butter to a shortline.

There is need for this legislation. Railroading is an expensive operation which if not adequately financed will fail. The biggest problem for a new shortline is capital - cash for purchase and rehabilitation of track which is usually run down. Obtaining loans from financial institutions in Kansas is difficult. It is too big an undertaking for local banks. Even the largest Kansas banks are not willing to take the risk as they do not presently have the expertise to analyze the shortline business. This is a shame. Kansas shortlines should have access to capital from Kansas banks. I would suggest that a loan guarantee program will not only assist shortline railroads but Kansas banks as well. They would be encouraged to expand their capabilities in order to enter safely into a field profitable in itself but even more, one that is a catalyst for local economic development. As to the legislation, Senator Fred Kerr has indicated these bills are not necessarily in their final form and the committees are open to discussion. It is my understanding that the thrust of the bills is to create a method of providing financial assistance for shortline financing, acquisition, or rehabilitation. Senate Bill 265 and House Bill 2349, Section 1(b) establishes loan guarantees in the amount of $5 million annually, not to exceed $20 million outstanding at any one time. Although "loan" is added to loan guarantee in these bills, no funding level is specified for such loans.

Generally, I favor the rail finance legislation. The State should be involved in rail financing in order to establish a balanced transportation system. These bills should provide the necessary funding and authority for administration of a rail service improvement program. I agree with Section 1 of Senate Bill 266 and House Bill 2348 that "... it is in the best interest of the State to establish and fund a rail service improvement program in order to preserve and improve essential rail service in the state." I am pleased that the criteria for allocation and expenditure (Section 4(b)) is to be based on the "... economic viability of the project." Economic viability is the key. Sentimentality is not enough. The rail service improvement program will preserve so called "marginal" lines that have traffic potential but would otherwise be lost due to high start up costs.

I do have some exceptions with the wording and intent of the bills in their present form. First, the State should never own or operate a railroad except as a receiver of property due to a defaulted loan. Then only until the property can be disposed of by sale or abandonment. I do not believe this state or any state for that matter can successfully operate a railroad. Railroading is a dynamic for-profit, private sector industry. Although some states do operate railroads, the usual result is a railroad with no economic viability operated under public subsidy. A line that can be profitable will be purchased by a private operator.

Sections 4(a), 4(e)-(h), and 8 (Senate Bill 266 and House Bill 2348) indicate to me the State would be given authority to acquire and operate railroads. Section 4(a) gives the Secretary the power of "General supervision over the administration of the construction and maintenance of all railroads owned by the state." This thought is echoed in 4(f), "... acquire land, property and railroad building materials" and 4(h), "do research, inspect and test all materials, supplies, equipment and machinery used for state railroad property." In Section 8, "The secretary of transportation ... may acquire ... the rail property ... necessary for the operation of a railroad ...." For the reasons previously given, I recommend deletion of these sections unless these powers are qualified solely as a temporary measure due to the default of a loan or loan guarantee.

Second, loans or loan guarantees should be restricted to financing, acquisition, or rehabilitation. My concern is that use of the term "maintenance," Sections 4(g), 4(i), and 7(a) could imply the provision of subsidy for a routine and continuing function of railroading. On the other hand, "rehabilitation" indicates a restoration to previous standards or an upgrading to higher standards.[1]

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[1] Federal standards are published which adequately provide a measurable level of improvement. The Federal Railroad Administration track safety class standards define levels of service in terms of track gage, number of serviceable ties per rail, etc. For example, Track Safety Class 1 will allow a maximum operating speed for freight trains of 10 miles per hour. Improvement to Class 2 will allow speeds of 25 miles per hour.

Rail service improvement funds should be available only for an item with recoverable costs such as property or that which improves the property such as rehabilitation. Rail material has a value in the resale market. Used rail has a salvage value of about $100 per ton. Used ties in good condition have a value of $3 to $5. Based on net asset value, a rail line will bring a sale price of between $25,000 and $50,000 per mile.

Third, the bills do not set out any amount for a loan program. I am uncertain how much if any funding is intended. I would expect that KDOT rail officials have estimated an amount needed to maintain an adequate rail system. Rather than recommend a funding level, I would rely on their studies to establish a total amount of loans and loan guarantees. However, I will provide a "benchmark" for your deliberations. One million dollars will provide sufficient ties to rehabilitate 100 miles of track (500 ties per mile at $20 per tie) or purchase at least 20 miles of rail line at an average net asset value of $50,000 per mile.

A few years ago, $1,000,000 would have been adequate. That was fine when we were losing about 100 miles through abandonment each year. The problem today is that the State is faced with several hundred miles of Santa Fe and Union Pacific track subject to abandonment. A higher amount is needed now. Five million dollars in loan guarantees plus loans expanded with shipper participation as set out in Section 5(b) and federal funds under the rail service continuation program would effectively assist purchase and rehabilitation needs.

Fourth, the bills do not contain any reference to incorporating public input in either the formation of or administration of rules and regulations. This is unfortunate. Railroading is a dynamic arena that changes constantly. The complexities of industry trends, international and domestic markets, and federal legislation and administrative rulings require constant monitoring. The opinions and experience of those involved on a daily basis with shipping, operation of railroads, and financing capital projects is essential in the development of a successful rail service improvement financing program.

Finally, I urge you to revise these bills, fund them, and pass them. Again, thank you for the opportunity to address this legislative committee. I will be happy to respond to your questions.

Branchlines in the '90s Can you survive abandonment?

by Vic Moser
President
Flatland Professional Services

Have you ever considered what would happen to your business if you lost rail service? The survival of rail branchlines has been a concern of many elevator operators throughout the '80s. And the possibility of abandonment is an issue some will continue to face in the '90s. In this two-part series, we'll examine shipper options when faced either with rail line abandonment or its purchase or lease by a shortline operator. In Part I we'll look at how to evaluate the worth of the line and options to consider when faced with rail abandonment. In Part II we'll examine advantages and disadvantages of shortline operations and the option of a shipper owned-and-operated line.

Branchlines are an emotional issue. The threatened loss or transfer of a line dredges up fears of community survival and resultant highway deterioration, While loss of rail service would be a blow to the community, chances are no direct employment or retail loss would be felt simply because no railroad employees live in the community. Highway and road deterioration due to additional truck traffic, however, is a real problem. But again, the resulting tax increase will not be crippling to any one business or person because taxes are distributed across the population.

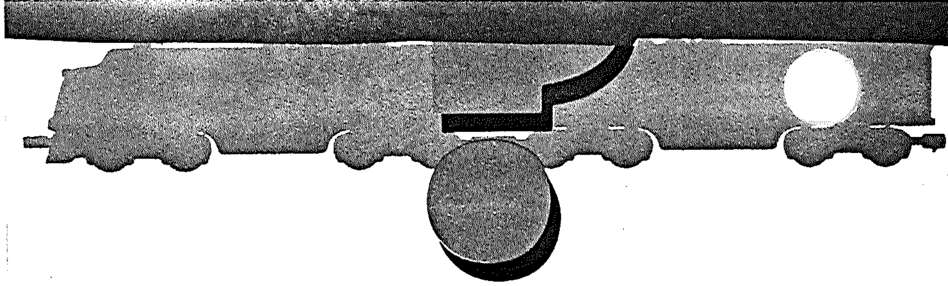
The direct impact of rail abandonment on your operation will be felt in higher freight rates and loss of traditional markets. Freight rates to long-distance markets will be higher by truck. It may not be feasible to ship direct if a market is more than 200 miles away.

While this may sound glum, I can tell you this: Grain elevators do survive without rail service. A recent Federal Railroad Administration survey of small railroad users found that almost two-thirds of the respondents would just change to other modes of transport, primarily truck, if rail service were lost. Only a small percentage reported they would have to close.

To realize the impact rail abandonment would have on your facility, you must first evaluate the "worth" of your rail service. What is your profitability with the railroad? What will it be without the railroad? The following steps will help determine your rail service's worth and the steps you may want to take if faced with loss of rail service. Use information from your latest full fiscal year unless it was an unusual year due to drought or some other condition.

Step 1. Calculate the additional cost of shipping by truck

To determine the additional cost of shipping exclusively by truck, use the selected year's shipping patterns (percent shipped to each market by rail and truck) and volume of each grain handled. Get the rates by truck and railroad to each market from current freight waybills or tariffs. Also calculate the additional cost of receiving all bulk products, such as fertilizer, by truck. The result will be total additional shipping cost. Because the cost of shipping to some markets will be obviously prohibitive by truck, those markets are potentially lost.



Step 2. Determine competitive disadvantage

Considering your competitors who will continue to have rail service, can your present margins be maintained? If they can, there is no competitive disadvantage. If not, estimate how much your market area will shrink due to offering a lower purchase price. How many customers or acres of production will be lost for each cent less per bushel offered for the purchase of grain from producers? The result is estimated grain handled and a quantified reduction in market area.

The threatened loss or transfer of a line dredges up fears of community survival and resultant highway deterioration.

Step 3. Evaluate change in profitability

The change in profitability due to loss of rail service can be calculated several ways. The simplest is to reduce your gross revenue for all operations by the amount of the additional cost of transportation calculated in Step 1. The assumption here is that your margin is reduced so that the same volume of grain is handled. A second variation assumes that the margin is not reduced, thus the volume handled is lessened as estimated in Step 2. This method is more complex due to the need to adjust grain revenue as well as handling costs. The result of either method of calculation is the amount of "harm" to your operation resulting from the loss of rail service.

Step 4. Estimate the cost of converting to other transport

Without rail service, truck load-out capacity may need to be increased to reduce the harvest "traffic jam." Equipment suppliers will help you determine changes in configuration, types of equipment needed and a "ballpark" cost. If your present configuration is adequate, there is no additional cost

Step 5. Adapting to change

To this point, the analysis has employed historical data to set up a model describing the current situation with and without rail service. This is the "base" model appropriate for ICC evidence. The results determine in part the degree of involvement you may

Grain elevators do survive without rail service.

wish to have in the decision-making affecting your future rail service.

Now we're going to redo the analysis, changing variables affecting the total operation of your facility. This step is in many ways the most critical because adapting your total operation to the future without rail service will be considered. The results depend on your unique situation and the originality you bring to finding alternative solutions.

Examine your markets for buying and selling grain. Search for a buyer, a terminal, which will purchase inbound truck grain at comparable levels to direct sale to long-distance markets via railroad. Can handling costs be cut or margins reduced to increase or hold present volumes? Can other services be added, dropped or emphasized? Is it possible to contract out as a grain storage depot or combine with some compatible facility with rail service? Finally, put a price on any reasonable action.

Step 6. Determine your course of action

The relative amount of harm and the ability to adapt successfully are the keys to your involvement in your rail line's future. There may be no harm and thus no need to take action. Major harm may require options as diverse as vigorously fighting abandonment or buying and operating the railroad. These are summarized in the following table.

There is no set dollar amount to distinguish between a little harm, some harm and significant harm. The degree of impact is unique to your business and is left to your judgment. Little or no harm should be easily recognized — the railroad really has little influence on your business, and the conversion to trucking is nearly complete. The difference between actions taken to cope with some harm and significant harm lies in the amount of money and time needed to maintain profitability.

The value of modifying your facility turns on its ability to pay out. A change that will pay for itself over time and generate a profit is a positive investment decision. Should no modification pay out, then the harm is significant. Money should be spent as warranted for organized protest handled by an attorney, active

The direct impact of rail abandonment on your operation will be felt in higher freight rates and loss of traditional markets.

"lobbying" for the transfer of the operation to a competent operator or consideration of your purchase and operation of the railroad. F&GI

For more information on the subject covered in this article, write in No. 106 on the enclosed reader service card, or call Vic at (316) 662-3059.

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Branchlines in the '90s Part II: Alternatives to abandonment

Last month we looked at ways to determine a branchline's value to your operation if faced with abandonment. The purpose was to determine what extent you should be involved in its future.

If you've determined abandonment will result in major changes for your operation, you may choose to fight it. This, however, is expensive and unlikely to succeed — the chances are about 24 to 1. And you'll need a good attorney with a sound argument to win. From 1986 through 1988, the railroads filed 248 abandonment applications. Of these the Interstate Commerce Commission (ICC) granted 212, denied nine and dismissed 27.

(ICC abandonment procedures are found in the regulations at 49 United States Code (U.S.C.) 10903. The ICC publishes a comprehensive book, "A Guide for Public Participation in Rail Abandonment Cases under the Interstate Commerce Act." Contact the ICC's Office of Public Assistance at (202) 275-7597 for a copy.)

Due to the loosening of regulations on rail-line transfer, and the railroad's realization that it's less of a hassle than abandonment, you may have to purchase or lease the line.

How lines are transferred

There are two primary methods major railroads use to transfer lines to shortline operators: sale of the property and long-term lease. Sale or lease of the line can be done through negotiation or open bid.

A few years ago, most lines were transferred through negotiated direct sales with a few selected bidders. Bidders were chosen for their proven ability to operate shortlines and generate the necessary capital. Today many lines are leased.

> The situation you're most likely to face is the purchase or lease of the line.

Leasing originated from the railroad's desire to continue controlling traffic after transferring the line. Leasing is a good option when the line's expected traffic generating capability is too low to support the desired purchase price and rehabilitation costs. Leasing is also appropriate when shippers are skeptical of a shortline operation and want some assurance that should the operation fail, the major railroad will take the property back.

Open bidding for lease or sale is used by some railroads and, of course, is a very "American" way of disposing of lines. It takes away the scent of "back room" deals and allows the fully qualified, but new and untried, operator the opportunity to acquire. It has kept the shortline business from becoming the domain of a few insiders.

When figuring a bid, prospective operators contact shippers individually resulting in a mandate that the railroad choose the operator most popular with the shippers. This gives shippers some voice in the process where there would have been little with a negotiated sale.

Open bidding does have drawbacks. The biggest one for the shipper is that the winning bidder may not be qualified. For the railroad it's the extra time and energy required to evaluate each proposal.

What makes a shortline operator competent?

Successful railroading requires many qualities. The most important are operating experience and capital. Lack of either will not overcome the best of intentions. The result will be a deterioration of traffic base and track condition, hastening abandonment.

There are lots of people who want to operate a railroad. *Some* are qualified. Most are not. How can you tell? Experience is easy to determine. Ask the prospective operator where they've worked and what other line they operate. Ask for references and then check them out. A couple of phone calls will tell you all you need to know.

Any potential operator, qualified or not, will claim they intend to operate the railroad with good equipment, in the same manner and at the same rates as the major railroad. This answer should not be accepted. Ask for details. A serious operator will have operating, maintenance and marketing plans *and* be willing to discuss them.

Will service be twice per week or on demand? Will extras be run during peak shipping periods? How many locomotives, and what type, will be brought into service? Will rates be less or more than the major railroad? These are just some of the questions you should ask any potential operator.

It's critical that you tell the major railroad what you expect in a new operator. If you favor a particular bidder, tell the railroad who it is and what you like about him or her.

Operating your own line

Now let's put the shoe on the other foot. If no third party is interested in operating your line, or you don't feel you'll be satisfied with an outsider, you may wish to operate the railroad yourself.

The first step is to conduct a feasibility analysis. I strongly recommend you seek the advice of a consultant because of the complexity of railroading and the overlay of regulation. Another option is to find a shortline operator who might lease the line from you. If they will do the analysis, your only

2-11

by Vic Moser,
President, Flatland
Professional Services

concern is their ability to provide a solid operation and pay back your investment.

To conduct a feasibility analysis, you need the line's historical traffic data and track condition information. If the railroad is a willing seller, this will be provided to you under "confidence." With it, you can determine present revenues and project future traffic under various traffic and rate levels. The cost side is more difficult. Employee numbers and wage levels, cost of purchasing equipment, annual maintenance costs, car hire costs, and every other cost involved in operating any business must be estimated with a high degree of confidence.

The feasibility statement should yield estimated profitability and guidelines for a purchase or lease proposal to the railroad. In other words, how much you should offer for the line.

Financing the railroad purchase, equipment and start-up costs is your next hurdle. There is a variety of ways to obtain financing, including dealing with firms who specialize in this area. Most sources of capital will require some participation from the owners. You must determine how much of your money you're willing to invest and how much debt you're willing to assume.

A serious shortline operator will have operating, maintenance and marketing plans and be willing to discuss them.

The final step is negotiation with the railroad. Every line acquisition is different and there are no hard and fast rules. You can negotiate purchase or lease price, per-car allowance paid by the major railroad, access to car supply, free days of per diem, and how much assistance the major railroad will provide with car ordering, billing and collection. Most major railroads will be willing to handle the regulatory requirements needed for transfer with the ICC. You should insist that this be done.

Some of the concerns presented here about shortlines may have painted a negative picture, but you need to be aware that exploration of all options, including a shipper-owned line is a difficult undertaking. A recent ICC study, however, shows that shippers are satisfied with shortline service and rates. Shortline railroads are generally profitable. When faced with abandonment considering options, always keep in mind one thing: Do what is best for your facility.

For more information on options to branchline abandonment, call Vic Moser at (316) 662-3059.

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KANSAS GRAIN AND FEED ASSOCIATION

STATEMENT OF THE KANSAS GRAIN AND FEED ASSOCIATION

PRESENTED TO THE

HOUSE TRANSPORTATION COMMITTEE

REPRESENTATIVE HERMAN DILLON, CHAIRMAN

TUESDAY, MARCH 5, 1991

My name is Tom R. Tunnell, Executive Vice President of the Kansas Grain and Feed Association. My Association represents 98% of all Kansas grain storage and handling facilities including country and terminal elevators owned by both cooperative and independent companies. Almost all of the existing 900 plus elevators in the state either have been or are located on railroad branch or main lines.

Since the 1860's, the fortune of the grain and rail industries have traditionally been closely interrelated. However, in the past 15 years, rail branch line abandonments have become more prevelant, forcing our industry to find alternative grain transportation methods or work with smaller short line railroads. We applaud and endorse the concept to establish a rail service improvement program and a railroad rehabilitation loan guarantee fund as embodied in House bills 2348 and 2349.

House Transportation
3-5-91
ATTACHMENT 3-1

P.O. BOX 2429 • Topeka, KS 66601-2429 • (913) 234-0461

These programs are especially needed now in light of last year's announcement by Santa Fe Railway to abandon over 700 miles of Kansas branch lines. Kansas must become a proactive player in the abandonment process to assure that rail service of some type remains available to rural Kansas.

Thank you for this opportunity to testify on this important issue. I would be happy to answer any questions.

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Testimony on House Bills 2348 and 2349

Acts Relating to Railroads; Service Improvement and Rehabilitation

House Transportation Committee

March 5, 1991

Prepared By
Don Swisher
Farmway Co-op, Inc.
Beloit, Kansas

Mr. Chairman and members of the committee, my name is Don Swisher and I am the Grain Department Manager of Farmway Co-op, Inc.; a grain marketing and farm supply cooperative serving over 4,700 members. Although Farmway Co-op's general office is located in Beloit, the organization is owned by and serves a membership made up of twelve communities in Mitchell, Lincoln and surrounding counties in north-central Kansas.

Farmway is driven by the direct mission of enhancing the economic well-being of its members, which is accomplished through marketing its members grain, and input supplies needed of feed, fertilizer, chemicals, farm supplies, petroleum products and related services.

About six months ago, the Santa Fe Railroad placed 700 miles of Kansas track in class 1 abandonment. These are so-called "low-density" lines that are unprofitable for the Santa Fe to operate. One of the lines slated for abandonment is the Salina to Osborne branch which would directly affect 4 communities that Farmway serves. The loss of rail service from these communities would adversely impact the economic well-being of all residents of Lincoln, Mitchell, and Osborne counties.

Obviously, grain producers would be the most directly affected through increased freight costs and loss of any possible rail premiums.

If the Salina to Osborne branch of the Santa Fe Railroad were abandoned and closed down, it would result in an additional traffic load of over 3200 semi-truck loads of grain on area roads and highways just from Farmway's elevators. If they were farm trucks, you could double that amount. The resulting inefficient use of energy, safety and pollution factors and road and bridge maintenance costs would affect <u>all</u> residents of the <u>State</u>.

Another factor to consider in the event of abandonment and scrapping the line is the impact on county taxes. Every citizen of Lincoln, Mitchell, and Osborne counties would feel that in <u>their</u> pocketbook.

Farmway would be impacted with additional operational costs amounting to 5 to 7 cents per bushel as well as the obvious inconvenience, congestion and resulting danger to our employees and patrons of attempting to load that many trucks during harvest. Also, a capital expenditure of about $50,000 per elevator for additional truck loading facilities would be needed.

Realizing the value of rail service to our area, <u>for years</u>, we have made sincere efforts to ship every bushel by rail we possibly could, even to the extent of costing us additional operating expense when we picked up wheat off the ground and dumped it back in our elevators to wait for rail cars.

Our <u>receiving volume</u> and <u>rail shipments</u> on this line has remained steady if you discount 1988 and 1989; in fact there has been a gradual <u>increase</u> in both.

The recent drought <u>reduced</u> our 1988 crop receipts by 35 % and 1989 crop receipts by 65 % of a normal year. 1990 crop receipts were more nearly normal. We were forced to pile 1 1/3 million bushels of wheat on the ground in our territory to help take care of our patrons needs. 40 % of this was at these 4 Santa Fe branches. In addition, about 500,000 bushels by-passed these branches because our elevators were full and receiving ability greatly reduced. The condition of the track was part of the problem as the Santa Fe Railroad de-railed twice during harvest on this line and the car supply was pitifully short of our needs. An adequate supply of trucks was impossible to find also.

I feel that within a short time, the Santa Fe will cease to operate this line. If this is true, we are left with 2 possibilities; the Santa Fe will abandon the line and scrap it out, or a short line railroad could purchase the line from the Santa Fe and operate it.

It would be possible for a short line railroad to profitably operate this line because of their more efficient organizational structure and lower overhead and labor costs. Receiving some type of assistance in getting the track back to operating condition and start up costs would be a big help.

We believe that House Bills 2348 and 2349 could go a long ways toward preserving some rail lines that are in jeopardy. We also feel that aid to lines should be prioritized by need, potential success and commitment to the line.

TESTIMONY ON HOUSE BILL NUMBER 2348 AND 2349

HOUSE TRANSPORTATION COMMITTEE

MARCH 5, 1991

PREPARED BY WILLIAM F. YORK

CHAIRMAN OF THE SANTA FE SHIPPERS ASSOCIATION

Mr. Chairman and Members of the Committee:

My name is William F. York, general manager of the Andale Farmers Coop of Andale, Kansas. We are a grain and farm supply cooperative in South Central Kansas with elevators in five (5) different communities - Andale, Colwich, Furley, Sedgwick, and Valley Center. I have been with the Andale Coop five and one-half (5 1/2) years and involved in the management of grain elevators twenty-eight and one-half (28 1/2) years throughout Kansas and Nebraska. I am chairman of the UP-MOP Shippers Association and chairman of the ATSF Shippers Association. I have been involved with trying to maintain rail service and fighting railroad abandonments for the last twenty (20) years. I know some of the effects of rail abandonments on rural Kansas and the shippers of Agricultural Commodities when these abandonments are allowed to happen. Abandonments create undue hardships on both the farmer and the town where they do business. Freight rates for trucks raise sharply and the wear and tear on hiways from truck traffic increase the state expenditure for road repairs. The farmer again suffers from lower grain prices and higher taxes. It is my opinion HB2348 and HB2349 would establish a vehicle to preserve and retain a much needed service to agriculture and rural Kansas now and in the future. We continue to provide means to market our most valuable commodity and preserve the nations most important industry, agriculture. This would allow the

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3-5-91
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Secretary of Transportation for the State of Kansas, to provide a way to work with private companies in renovating trackage and allow short line rail operators to come in and provide rail service to shippers and receivers of agricultural commodities and commodities essential to providing goods and services to consumers of Kansas and surrounding states. This would authorize the Secretary of Transportation to supervise the expenditure of state money being used for administration of construction and maintenance of railroads owned by the state. These bills would allow the stipulation of maximum operating standards for rail lines operating to achieve reasonable transportation service for shippers to achieve best use of funds invested in rail line rehabilitation. The Secretary of Transportation would have the authorization to identify rail lines in need of improvement and purchase from railroads that have allowed lines to deteriorate to a point they are attempting to abandon these lines and the potential for profitable operation is still available. These Bills would provide an innovative way to maintain and continue providing the shippers on railroad lines that are attempting an abandonment, means to continue shipping their products to a market that will provide more profit to their business.

I want to thank you for your attention and ask for your support in HB2348 and HB2349 for the continued future of Agriculture in this great State of Kansas.

Statement by Lynn Rogers
Public Affairs Manager
CoBank - National Bank for Cooperatives
March 5, 1991

An average Kansan probably does not understand the importance of railroads in our state. Our only encounter is waiting for a train to pass at a railroad crossing. However, as a representative of a company that serves agricultural businesses across Kansas, I see the importance of a strong railroad system. Thank you for your interest in keeping that system viable.

CoBank has been serving only agricultural cooperatives and rural electric cooperatives for over fifty years. Nationwide, we deploy over 10 billion dollars in loans to our customers. As a cooperative, members have invested over $800 million dollars to capitalize our organization.

In Kansas, we finance 96 percent of all agricultural cooperatives or nearly 195 cooperatives, through seasonal lines of credit to finance their day-to-day operations and term loans to build and/or purchase new equipment. Most cooperatives look to us to help finance the millions of bushels of grain that they purchase from their members each year.

My reason for sharing this information is to let you know that CoBank is committed to our customers because they are our only "market" and that we know and understand the business they are in.

If railroads abandon cooperatives and other rural businesses, it will impact every Kansan. Grain can be shipped in other ways and some times, at the same rate as a train. That is usually because there is a train rate that keeps the market competitive. And we all know what additional truck traffic will do to our roads and highways.

Another major concern of cooperatives and other rural businesses is the ability to purchase the property their facilities are located on. Millions of dollars have been invested in facilities like grain elevators and fertilizer plants in conjunction with railroads. It is important that these investments are protected with these businesses having the first right to purchase their properties **at a fair price.**

Overall, CoBank supports this legislation because it will continue to give our members and customers other options. State railroad loan guarantee and improvement programs can keep those options open, as well as communicate to all Kansans that we are investing in their future.

CoBank
245 North Waco, P.O. Box 2940
Wichita, KS, 67210-2940
(316) 266-5715

House Transportation
3-5-91
ATTACHMENT 6-1

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-AX 316-458-5121

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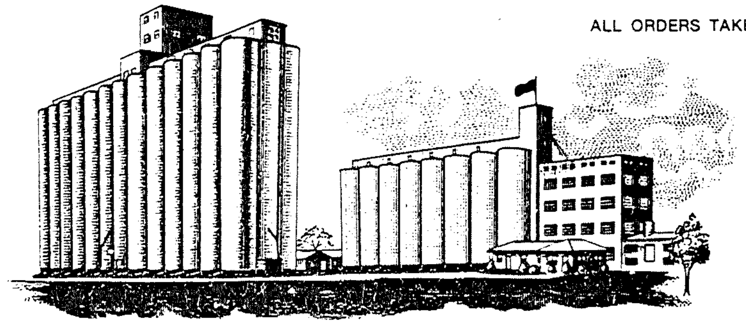


STAFFORD COUNTY FLOUR MILLS CO.

MAKERS OF HUDSON CREAM

"THE FLOUR WITHOUT A FAULT"

HUDSON, KANSAS 67545

February 28, 1991

Joan Adam,
Chairman: Legislative Judicial and
Congressional Apportionment,
House of Representatives,
Topeka, Kansas

Honorable Representative:

Re: H.B. 2348 and H.B. 2349

My name is Alvin Brensing, I am president of the Stafford County Flour Mills Company. We are located at Hudson, Kansas, which is in Stafford County. As of May 20, 1991, I will have been with this company for 54 years.

Briefly, our company manufactures Hudson Cream Flour, both the regular and self rising. This is sold in most areas of Kansas. We also sell in the states of Arkansas, West Virginia, Tennessee, Kentucky, Ohio, Virginia and Pennsylvania. Hudson Cream Flour in the 5 lb. Self Rising bag is the leading seller over all brands in the state of West Virginia.

Our company is currently in the process of taking bids from contractors for the potential doubling the capacity of our milling facilities.

I am a member of the Board of Directors of the UP, MP Shippers Association. I have been authorized by Chairman Bill York to appear before the House Committee.

Our company has also joined the Santa Fe Shippers Association which is endeavoring to purchase 800 miles of Santa Fe lines.

The CWP railroad is in the process of leasing the UP lines from Geneseo to Hutchinson to Wichita to Conway Springs to Hardtner, and from Conway Springs to

House Transportation
3-5-91
ATTACHMENT 7-1

Radium including the Iuka branch. We are located on the upper end of the Radium branch.

As a board member I attended several meetings with various short line railroads who were endeavoring to lease the above lines. After much negotiation, we are happy to see the lease agreement being worked out.

The above rail lines serve a very high grain producing area in the central part of Kansas. This same area also uses a large tonnage of fertilizer inbound. The rail lines are very essential to the producers, the country elevators, and to the terminals located in Hutchinson and Wichita. With the 1990 wheat harvest there would have been a vast state of confusion without the rail service. It would take about 400 semi trucks to handle the volume of 100 rail cars.

These branch lines are currently not in good physical shape and House Bills 2348 and 2349 would provide a manner of upgrading and maintaining these tracks to handle service needed. This would make our lines more viable for continued service and in turn benefit all communities and businesses along the lines.

We are on the upper end of the Radium branch and we have some doubt if the short line will continue to give us service.

A large funding bill was passed for the improvement of the highways in Kansas. If we allow the rail lines in Kansas to be abandoned, the final outcome will be that much more traffic will be on the highways which in turn will require more and more maintenance.

If these rail lines are abandoned and taken off the tax roll, this will amount to considerable amount of tax loss for each county involved.

As you can readily ascertain, there continues to be a need for these rail services.

Thanking you, I am

Very truly yours,

Stafford County Flour Mills Company,

Alvin A. Brensing

Alvin A. Brensing, President

March 5, 1991

To: Rep. Herman G. Dillon, Chairperson and Members of the House Transportation Committee

From: Robert H. Walker, Chairman, SEK Cities Coliation

Subject: HB 2348 & 2349

Background

Rail service is essential to S.E. Kansas and regions throughout the state. Many industries are dependent upon railroads to receive and ship raw goods and finished products.

Historically, government has supported all modes of transportation, including canals and river projects, roads and highways, air service and certainly railroads.

Last year Santa Fe announced plans to sell or abandon 286 miles of track located in S.E. Kansas and Northern Oklahoma as illustrated on the attached map. The lines extend from Iola to Tulsa and from Chanute to Wellington. The lines had been owned and operated by Santa Fe for over 100 years and currently provide essential freight services for approximately 50 industries with 5,000 employees.

House Transportation
3-5-91
ATTACHMENT 8-1

In December Santa Fe sold the 286 miles to the Southern Kansas and Oklahoma Railroad, a short line operator headquartered in Coffeyville. If the lines had not been sold, they would have been abandoned and lost forever.

Currently we are working with Counties and Cities in Kansas and Oklahoma to establish a Bi-State Port Authority to purchase the 286 miles of rail property and lease it back to a short line operator similiar to the Mid States Port Authority in N.W. Kansas. I want to emphasize we have no interest in operating a railroad, our intent is to ensure continued rail service and preservation of the right of way.

HB 2348 & 2349

The bills are important for two reasons:

1) Bond marketability
2) Lower interest rates

Without the guarantee, selling the bonds would be more difficult as they would be revenue bonds backed only by the lease agreement. A new Port Authority will also lack experience in the bond markets affecting investor interest compared to bonds guaranteed by the State with its outstanding credit rating.

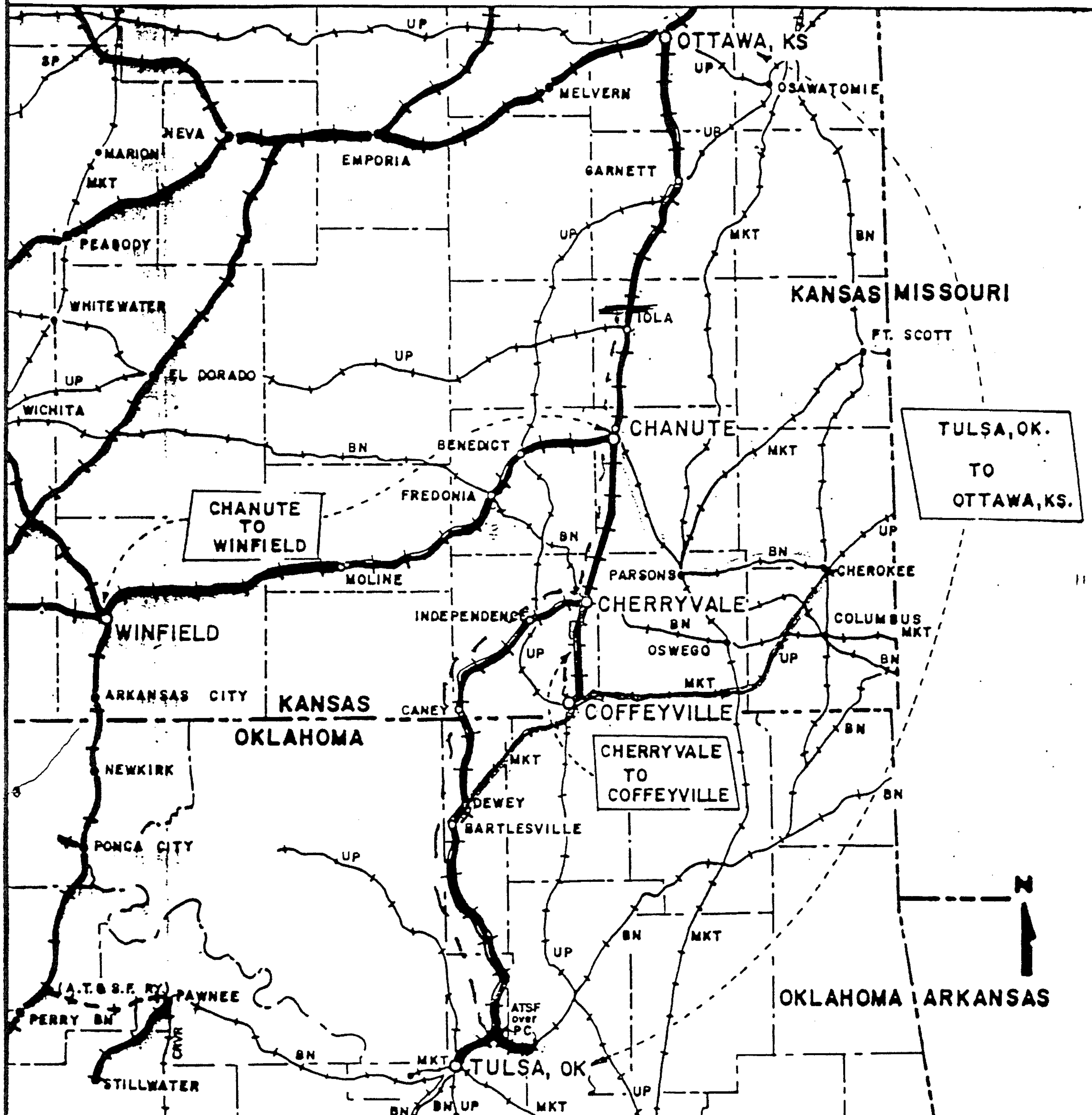
State guaranteed bonds would carry an interest rate of at least 50-75 basic points lower, saving a significant amount of interest over the life of the bonds. For example, assuming a $5,000,000 issue payable over 20 years, the savings would be approximately $525,000 and we believe that is a very conservative estimate.

The risk to the State in guaranteeing the bonds is extremely minimal. The asset value of the lines would exceed the outstanding debt and the Port Authority, short line operator and shippers would all have a vested interest in the line's success. Furthermore, the loss of rail service will result in far greater costs to the Kansas economy due to fewer jobs, reduced income and lower tax revenues, as well as our competitive position with other states.

We believe public support of rail service is important to the entire State. HB 2348 & 2349 will help ensure rail service in the future. We urge your support of both bills.

Attachment A

MAP SHOWING SANTA FE'S RAIL LINE FOR SALE in the TULSA, OKLAHOMA AREA



— LEGEND —

: SANTA FE RAIL LINE FOR SALE
: OTHER SANTA FE LINE
: OTHER RAIL LINE (AS NOTED)
: COUNTY BOUNDARY LINE
SCALE: 1" = 24.5 MILES

THE A.T.& S.F. RY. CO.
CHICAGO, IL. MARCH 18, 1988
C.E. DRW. 2-0536

KANSAS RAILROAD ASSOCIATION

800 JACKSON
SUITE 1120
TOPEKA, KANSAS 66612

PATRICK R. HUBBELL

913-357-3392

Statement of the
Kansas Railroad Association

Presented to the House Committee on Transportation
The Honorable Herman Dillon, Chairman

Statehouse
Topeka, Kansas

Mr. Chairman and Members of the Committee:

My name is Pat Hubbell. I appear here today on behalf of the Kansas Railroad Association in regard to House Bill 2348 and House Bill 2349. The Railroad Association suggests the following amendments to House Bill 2348:

Strike the original sections and insert the following:

New Section 1. The legislature finds and determines that integrated transportation systems, including railways, highways and airways, are necessary in order to meet the economic and energy needs of the citizens of the state, both now and in the future. The legislature further finds and determines that it is in the best interest of the state to establish a rail service assistance program in order to preserve and revitalize essential rail service in the state.

New Section 2. There is hereby established the Rail Service Assistance Council which shall provide assistance to shippers and other interested parties in preserving and revitalizing essential rail service in the state. The Council shall consist of nine members to be appointed by the Governor as follows:

(a) The secretary of transportation who shall serve as chair;

(b) Two rail shippers:

(c) Two representatives of railroad management, one of whom shall represent Class I railroads, and one of whom shall represent regional or short line railroads;

(d) Two representatives of railroad labor, one of whom shall be an employee of a Class I railroad, and one of whom shall be an employee of a regional or short line railroad; and

(e) Two members of the general public.

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New Sec. 3. The Council shall have the following powers and duties:

(a) To enter into agreements and contracts for the sale, lease, or purchase of tangible, intangible, real, and personal property;

(b) To establish criteria for the loans and loan guarantees and criteria for the repayment of funds pursuant to this act;

(c) To negotiate and enter into contracts for rail line rehabilitation and improvement;

(d) To approve the expenditure of state and federal funds, as either grants or loans, including funds provided pursuant to K.S.A. 75-5029, and amendments thereto, allocated to rail service assistance consistent with this act; and

(e) To adopt rules and regulations to carry out the provisions of this act.

New Sec. 4. The Council may cooperate with other states in connection with the rail service assistance program. In exercising the authority conferred by this section, the secretary may enter into contractual agreements with other states.

New Sec. 5. The Council may request any railroad to provide such information as is reasonably necessary to carry out the purposes of this act, except that no railroad shall be compelled to provide any financial data or traffic information beyond that which is required to be submitted to the Interstate Commerce Commission pursuant to federal law.

New Sec. 6. The Council may advocate and promote improved rail service and more effective use of available rail service at a reasonable cost by:

(a) Providing technical assistance to rail users;

(b) Negotiating with persons representing the rail industry and other transportation modes; and

(c) Appearing on behalf of the public in the regulatory, rulemaking and other proceedings of state and federal agencies in support of improved and innovative rail service.

New Sec. 7. (Same as Section 12 in original bill)

In most cases when the Government gets involved in railroading it is usually a line that will not stand alone. There are no private sources of funding because of business levels on the branch line. It has been our experience that if the lines are economically viable, the free marketplace will work and short line operators will be successful.

In regard to House Bill 2349, the current law authorizes loan guarantees as opposed to direct loans. The private lender is a far better professional judge of risk, default, cost of capital than is the secretary of transportation. If the state is making the loans, the default rate is going to be far higher than if the loans are made privately. The state is going to be out the money and it is going to be saddled with worthless property. The bill also makes no procedural provisions for loan approval, qualifying buyers, paybacks, etc., nor does it include an appropriation or otherwise indicate a funding source. The railroads stand ready to assist in any way to solve the branch line abandonment problem in Kansas.

I appreciate the opportunity to testify Mr. Chairman. If there are any questions, I will be more than happy to attempt to answer them.

STATE OF KANSAS

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Gary Stotts
Secretary of Transportation

Joan Finney
Governor of Kansas

Testimony to House Transportation Committee

by Gary Stotts, Secretary of Transportation
March 5, 1991

Mr. Chairman and members of the Committee:

Thank you for the opportunity to comment on House Bills 2348 and 2349. My testimony is not that of a proponent or opponent of the two bills. However, because both bills directly affect the Kansas Department of Transportation and the Secretary of Transportation's powers and duties, I do wish to make some comments.

The intent of these bills, in our understanding, is to assist in preserving local rail freight service. Some of the provisions would be useful in that effort, from KDOT's perspective. There are also provisions which we feel are unneeded, or which represent major public policy decisions which we are not at this time prepared to support. The remaining provisions are, in our view, a codification of authority which is already inherent or implied in the Secretary of Transportation's statutory authority.

I. LOAN GUARANTEES

House Bill No. 2349 deals with state loan guarantees for railroads. This bill would amend the existing statute, K.S.A. 75-5029. That statute, enacted in 1983, authorized the Secretary of Transportation to guarantee a federal government loan to the Mid States Port Authority to help preserve some of the Rock Island lines in Kansas. K.S.A. 75-5030 expressly limited that authority to apply to a federal loan to Mid States. To give effect to that loan guarantee authority, the Legislature also included specific appropriation language in the Department's budget appropriations in 1984. (See Senate Bill 506, 1984 Session Laws Chapter 8; Senate Bill 578, 1984 Session Laws Chapter 9).

In 1989, the legislature amended the loan guarantee statutes to authorize a state guarantee of the refinancing of the original federal loan to Mid States Port Authority. The federal loan was replaced by a loan from a Kansas bank. K.S.A. 75-5029 was amended,

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and a new section, K.S.A. 75-5031, was enacted. Based on that authority, the Secretary of Transportation guaranteed a loan for $6.575 million to Mid States Port Authority by Bank IV-Wichita.

House Bill 2349 would provide the Secretary of Transportation to enter into additional loan guarantee agreements. The bill does not identify particular rail lines or lenders. It authorizes up to $5 million in new guarantees in any fiscal year, and sets a total ceiling of $20 million on the contingent liabilities that may be outstanding at any time.

KDOT's experience with the loan guarantee concept to date has been positive. The Mid States Port Authority loan appears to be well secured, and the operations by Kyle Railroad have been successful. The loan guarantee approach as a means of state involvement in rail line preservation has the advantage of not requiring any expenditure of state funds unless there is a default situation.

However, we are not at this time prepared to recommend additional state loan guarantees for railroad projects. For loan guarantees to work, it is necessary to designate a contingent source of funding. The Mid States loan guarantees were backed, ultimately, by the state highway fund. The railroad rehabilitation loan guarantee fund was created by statute, but no source of revenue for the fund has been provided. If a default occurs, a demand transfer would be required to pay any amounts owed by the state to the lender.

Governor Finney and I are strongly committed to completing the comprehensive highway program. A successful issue of highway bonds is critical to that effort. Any new contingent liabilities for railroad loan guarantees would have the potential to divert resources which are already committed to the highway program, and could send the wrong signals to the bond market. Until this issue is resolved we would not anticipate seeking budget authority placing additional demands on the highway fund.

If this bill is enacted, I would view it as an indication of legislative intent that the Department investigate the need for loan guarantees in order to preserve rail lines in Kansas. The bill would give KDOT a basis for negotiating with the railroad companies, lenders, and other parties, subject to a future budget authorization to implement any tentative agreements that we may determine to be warranted.

In summary, we neither recommend nor oppose enactment of the loan guarantee bill. However, if it is enacted, we recommend amendments to remove the references to specific dollar amounts, to avoid any question but that a separate appropriation bill would be needed before this authority could be implemented.

II. OTHER POWERS

The second bill, House Bill 2348 grants authority to the Secretary of Transportation to do a number of different things in terms of rail transportation. Several of these provisions refer to state ownership of railroad lines. We do not presently own any railroads nor do we wish authority to acquire them, so this section is not needed. I would have the same comment with reference to the power to acquire rail lines by eminent domain.

Section 10 provides for obtaining information from railroad companies by subpoena powers. We do not feel this authority is needed. The railroads will supply the data voluntarily if it is not subject to public disclosure under the open records act. This subject is addressed in Section 12 of the bill, which we do believe would be useful to the Department in evaluating proposals to preserve rail service. Section 12 creates an exemption under the Kansas Open Records Act for proprietary railroad company data. This would help to resolve the impasse the department has experienced in obtaining data from railroad companies. We support the enactment of Section 12.

In summary, we view the two proposed bills as statements of legislative policy encouraging continued involvement by the Department of Transportation in rail transportation. Many of the actions authorized by these bills could not be implemented without budget appropriations. I want to assure this Committee that with or without enactment of these bills, KDOT will continue to operate as a multimodal transportation agency, including the rail planning, research, and public assistance functions now being performed by our Bureau of Rail Affairs. KDOT staff will monitor the rail service situation in Kansas and will advise the legislature of any steps we may conclude are needed in order to maintain balanced and effective transportation services in Kansas.

Amendment HB 2437

On page 1, after line 12, by inserting the following section:

"Section 1. K.S.A. 8-234a is hereby amended to read as follows: 8-234a. (a) As used in the motor vehicle drivers' license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) "Drivers' license examiner" or "examiner" means a drivers' license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant to the authority granted by this act, to accept applications for drivers' licenses and administer the examinations required for the issuance or renewal of drivers' licenses;

(2) "nonresident" means every person who is not a resident of this state~~: Provided,~~. For the purposes of the motor vehicle drivers' license act any person who owns, rents or leases real estate in Kansas as ~~his or her~~ such person's residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls ~~his or her~~ such person's children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas ~~ninety (90)~~ 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act; and

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(3) "patrol" means the state highway patrol.

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) of this section.";

Also on page 1, in line 27, after "without" by inserting "a driving";

On page 4, in line 4, by striking all after "Kansas"; in line 5, by striking "cational institution"; also in line 5, after "be" by inserting "extended for a period not to exceed six months and shall be"; in line 6, after "without" by inserting "a driving"; in line 7, after "the" by inserting "original"; in line 9, before "K.S.A." by inserting "K.S.A. 8-234a and"; also in line 9, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after the semicolon, by inserting "providing exemption for certain military personnel from driver's license act;"; also in line 9, after "amending" by inserting "K.S.A. 8-234a and"; in line 10, by striking "section" and inserting "sections";

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Amendment HB 2435

On page 2, in line 5, after "is" by inserting "revoked or"; also in line 5, by striking "for a specifically designated period"; in line 6, after "suspension" by inserting "or revocation"; also in line 6, by striking the comma; by striking all in lines 7 through 9; in line 10, by striking all before the period;

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Amendment HB 2436

On page 2, after line 20, by inserting the following paragraph:

"The division shall mail all notices to the person's last known mailing address furnished to the division by the person if such address is different from the person's residence address.";

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