

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

12:44 ~~XX~~ p.m. on March 11, 1991 in room 522-S of the Capitol.

All members were present except:

Representative Garner Representative Parkinson
Representative Smith

Representative Everhart

Committee staff present:

Hank Avila - Legislative Research
Tom Severn - Legislative Research
Bruce Kinzie - Revisor of Statutes
Jo Copeland - Committee Secretary

Conferees appearing before the committee:

Chairman Dillon entertained a motion to approve the February 21st, 26th and 27th minutes. Representative Bryant moved the motion and Representative Correll seconded that the minutes be approved. Motion carried.

Final action on HB 2348 -Establishing the rail service improvement program.

Bruce Kinzie explained the amendment on HB 2348. (Attachment 1)

Discussion followed.

Representative Bryant moved to adopt the amendment on HB 2348 and Representative McKechnie seconded. Motion carried.

Questions and discussion followed.

John Scheirman, KDOT Chief of Bureau of Rail Affairs, said they could administer the bill as written now, with present staff.

Questions and discussion.

Representative Reinhardt moved to pass HB 2348 as amended. Representative Crowell seconded. Motion carried.

Meeting adjourned at 1:05 p.m.

HOUSE BILL No. 2348

By Representatives Adam, Bryant, Correll, Hendrix, Krehbiel, Long and Whiteman

2-13

9 AN ACT relating to railroads; establishing the rail service improve-
10 ment program; amending K.S.A. 1990 Supp. 45-221 and repealing
11 the existing section.

providing for loans and loan guarantees;

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. The legislature finds and determines that inte-
15 grated transportation systems, including railways, highways and air-
16 ways, are necessary in order to meet the economic and energy needs
17 of the citizens of the state, both now and in the future. The leg-
18 islature finds that a portion of the present railroad system in the
19 state does not provide adequate service to citizens of the state. The
20 legislature further finds and determines that it is in the best interest
21 of the state to establish and fund a rail service improvement program
22 in order to preserve and improve essential rail service in the state.

23 New Sec. 2. There is hereby established the rail service im-
24 provement program to provide assistance for improvement of rail
25 service in the state.

26 New Sec. 3. The secretary of transportation shall identify those
27 rail lines that have deteriorated or are in danger of deteriorating so
28 as to be unable to carry the speeds and weights necessary to effi-
29 ciently transport the goods and products moved or sought to be
30 moved on the lines.

31 New Sec. 4. The secretary of transportation shall have the fol-
32 lowing powers, duties, authority and jurisdiction:

33 ~~(a) General supervision over the administration of the construc-~~
34 ~~tion and maintenance of all railroads owned by the state;~~

35 ~~(b)~~ set priorities for the allocation and expenditure of money or
36 in kind contributions authorized under the rail service improvement
37 program and develop criteria for eligibility and approval of projects
38 under the program. The criteria shall include the anticipated eco-
39 nomic and social benefits to the state and to the area being served
40 and the economic viability of the project;

41 ~~(c)~~ negotiate and enter into contracts for rail line rehabilitation
42 or other rail service improvement;

43 ~~(d)~~ disburse state and federal money for rail service

(a)

(b)

(c)

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ATTACHMENT 1-1

1-2

- 1 improvements;
- 2 ~~(e) to establish the location of road beds;~~
- 3 ~~(f) acquire land, property and railroad building materials;~~
- 4 ~~(g) perform other operations incident to railroad construction,~~
- 5 ~~reconstruction or maintenance;~~
- 6 ~~(h) do research, inspect and test all materials, supplies, equip-~~
- 7 ~~ment and machinery used for state railroad property;~~
- 8 ~~(i) to enter into, perform and require the performance of all~~
- 9 ~~contracts incident to the construction, improvement, reconstruction,~~
- 10 ~~maintenance and rehabilitation of railroads in the state; and~~
- 11 ~~(j) to adopt rules and regulations to carry out the provisions of~~
- 12 ~~this act.~~

(d)

(e)

~~New Sec. 5. The secretary may negotiate and enter into contracts for the purpose of rail service improvement and may incorporate available state funds and funds from the federal rail service continuation program. The participants in these contracts shall be railroads, rail users and the department of transportation, and may be political subdivisions of the state and the federal government. In such contracts, participation by all parties shall be voluntary. The secretary may provide a portion of the money required to carry out the terms of any such contract by expenditure from the loan and loan guarantee fund, established under K.S.A. 75-5029, and amendments thereto.~~

See insert

~~New Sec. 6. The secretary in making any contract pursuant to section 5 may:~~

loan

- 25 (a) Stipulate minimum operating standards for rail lines designed
- 26 to achieve reasonable transportation service for shippers and to
- 27 achieve best use of funds invested in rail line rehabilitation;
- 28 (b) require a portion of the total assistance for improving a rail
- 29 line to be loaned to the railroad by rail users and require the railroad
- 30 to reimburse rail users for any loan on the basis of use of the line
- 31 and the revenues produced when the line has been improved;
- 32 (c) determine the terms and conditions under which all or any
- 33 portion of state funds allocated shall be repaid to the department of
- 34 transportation by the railroads. Reimbursement may be made as a
- 35 portion of the increased revenue derived from the improved rail
- 36 line. Any reimbursement received by the department pursuant to
- 37 this subsection shall be deposited in the rail rehabilitation loan and
- 38 loan guarantee fund established pursuant to K.S.A. 75-5029, and
- 39 amendments thereto, and shall be appropriated exclusively for re-
- 40 habilitating other rail lines in the state pursuant to section 5.

loaned

state treasury to the credit of the rail service improvement program loan fund

the

~~New Sec. 7. The secretary of transportation may expend money from the rail rehabilitation loan and loan guarantee fund for the following:~~

1-3

1 ~~(a) To provide financial assistance for leases, loans and purchases,~~
2 ~~or any combination of leases, loans and purchases within the limits~~
3 ~~of the funds appropriated by the legislature or otherwise obtained,~~
4 ~~for the acquisition, rehabilitation and maintenance of a railroad within~~
5 ~~the state;~~

6 ~~(b) for the purposes established under the provisions of section~~
7 ~~8.~~

8 ~~New Sec. 8. The secretary of transportation, as sole agent for~~
9 ~~the state, may acquire by purchase, condemnation or otherwise, a~~
10 ~~portion or portions of the rail property of a railroad corporation,~~
11 ~~including the tracks and ties, rights-of-way, land, buildings, ap-~~
12 ~~purtenances and other facilities which are or would be necessary for~~
13 ~~the operation of a railroad. The secretary may acquire other property~~
14 ~~found to be necessary for the present or future operation of a railroad.~~
15 ~~In a condemnation proceeding, the legislative determination set forth~~
16 ~~in this act that the acquisition is for a public purpose and is necessary~~
17 ~~is prima facie evidence of the purpose and necessity.~~

18 New Sec. 9. The secretary of transportation may cooperate with
19 other states in connection with the rail service improvement program
20 and the railroad planning process. In exercising the authority con-
21 ferred by this section, the secretary may enter into contractual agree-
22 ments with other states.

See insert

(10)

23 New Sec. 10. The secretary of transportation may request any
24 railroad to provide such information as is reasonably necessary to
25 carry out the purposes of this act. After a reasonable time to comply
26 with such request, the secretary may make a final demand for the
27 requested information. If the information is not provided within 60
28 days of such final demand, the secretary may issue a subpoena to
29 compel production of the information. The secretary shall exercise
30 all necessary caution to avoid disclosure of confidential information
31 supplied under this section.

(11)

32 New Sec. 11. The secretary of transportation may advocate and
33 promote improved rail service and more effective use of available
34 rail service at a reasonable cost by:

(12)

- 35 (a) Providing technical assistance to rail users;
- 36 (b) negotiating with persons representing the rail industry and
- 37 other transportation modes; and
- 38 (c) appearing on behalf of the public in the regulatory, rulemaking
- 39 and other proceedings of state and federal agencies in support of
- 40 improved and innovative rail service and for other purposes.

41 Section 12. K.S.A. 1990 Supp. 45-221 is hereby amended to read
42 as follows: 45-221. (a) Except to the extent disclosure is otherwise
43 required by law, a public agency shall not be required to disclose:

(13)

INSERT ATTACHMENT FOR AMENDMENTS TO SUBSTITUTE FOR SB 265

New Sec. 5. (a) The secretary of transportation is hereby authorized to make loans to a qualified entity for the purpose of facilitating the financing, acquisition or rehabilitation of railroads in the state of Kansas.

(b) Such loans shall be made upon such terms and conditions as the secretary of transportation may deem appropriate, and such loans shall be made from funds credited to the rail service improvement program loan fund.

(c) The rail service improvement program loan fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition and rehabilitation of railroads pursuant to subsection (a) of this section and for the refinancing thereof. The secretary of transportation shall administer the rail service improvement program loan fund. All expenditures from the rail service improvement program loan fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(d) All moneys received from the federal government under the federal rail service continuation program or any other federal moneys received for the purpose of this section shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the rail service improvement program loan fund.

INSERT ATTACHMENT FOR AMENDMENTS TO SUBSTITUTE FOR SB 265

New Sec. 7. (a) The secretary of transportation is hereby authorized upon application by a qualified entity and its lender to enter into an agreement to guarantee the repayment of loans made for the purpose of facilitating the financing, acquisition or rehabilitation of railroads in the state of Kansas.

(b) Such agreement may contain such terms and conditions as the secretary of transportation may deem appropriate to carry out the purposes of this section, except that the aggregate unpaid principal amount of obligations guaranteed thereby shall not exceed \$20,000,000 of which not more than \$5,000,000 may be available each fiscal year.

(c) The secretary of transportation may adopt rules and regulations consistent with and for the purpose of implementing the provisions of this section.

New Sec. 8. (a) The rail service improvement program guarantee loan fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition and rehabilitation of railroads pursuant to the rail service improvement program and for the refinancing thereof. The secretary of transportation shall administer the rail service improvement program guarantee loan fund. All expenditures from the rail service improvement program guarantee loan fund shall be made in accordance with appropriation acts upon warrants of the

director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(b) The secretary of transportation shall pay from the rail service improvement program guarantee loan fund to a lender of a qualified entity, the amounts for any loan which is in default, which is for the financing, acquisition or rehabilitation of railroads pursuant to the provisions of section 7.

New Sec. 9. As used in sections 5, 7 and 8, "qualified entity" means any interstate commerce commission certificated railroad, a port authority established in accordance with Kansas laws, or any entity meeting the rules and regulations established by the secretary of transportation.