Approved 3-8-91
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES.

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

9:02 a.m./p.m. on March 5, 1991 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:
Ben Barrett, Legislative Research Department
Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Vic Moser, Hutchison, Flatland Professional Services
Joe Lieber, Kansas Cooperative Council
Don Swisher, Farmway Co-op, Inc., Beloit
William York, Santa Fe Shippers Association
Lynn Rogers, CoBank, Wichita
Tom Tunnell, Kansas Grain and Feed Association
Gary Stotts, Secretary, KDOT

Hearing on S.B. 265 - Railroads rehabilitation loan and loan guarantee fund.

Hearing on S.B. 266 - Establishing the rail service improvement program.

Sen. F. Kerr said these bills had been drafted because of the need for this committee to consider what steps can be taken to keep railroads in operation. The committee should feel free to make any comments or recommendations they might have.

Vic Moser gave a brief discription of his background in the railroad industry which he has been in for twenty-two years. He said short lines are a good way to continue rail service and can be profitable ventures. They are welcomed into the national rail system. Railroading is expensive and it is too expensive an operation for Kansas banks. They are not willing to take the risk as they do not have the expertise to analyze the short line business. The loan guarantee program would assist short line railroads. The state should be involved in balancing a transportation system. He also said the state should never own or operate a railroad except as a receiver of property due to a defaulted loan. Railroading is for the private sector. A copy of his statement is attached. (Attachment 1).

Joe Lieber introduced the next three conferees to appear.

Don Swisher said his grain marketing and farm supply cooperative serves over 4700 members and said the loss of rail service would adversely impact the residents of their community around Beloit. He felt that a short line railroad could profitably operate the line and that these two bills would go a long way toward preserving some rail lines that are in jeopardy. A copy of his statement is attached. (Attachment 2).

William York said he has been fighting rail abandonment for the last twenty years. These abandonments create undue hardships on both the farmer and towns where they do business. Trucks cause more wear and tear on highways and cause more expenditure for the state. These bills would help establish a vehicle to preserve and retain much needed services. A copy of his statement is attached. (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,

room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on March 5, 1991

Lynn Rogers said CoBank finances 96 per cent of all agricultural cooperatives in Kansas with seasonal lines of credit to finance their day-to-day operations and term loans to build or purchase new equipment. They are committed to their business and are aware that rail abandonment impacts every Kansan. They support these bills. A copy of his statement is attached. (Attachment 4).

Tom Tunnell said the fortune of the grain and rail industries have traditionally been closely interrelated. The rail abandonments have forced the industry to find alternative grain transportation methods. With the announcement of Santa Fe to abandon over 700 miles of Kansas branch lines, this concept is being applauded. A copy of his statement is attached. (Attachment 5).

Pat Hubbell said they had an amendment to S.B. 266 to establish the Rail Service Assistance Council which would assist the Secretary of Transportation to preserve and revitalize essential rail service. A copy of his statement is attached. (Attachment 6). He said there should be a confidentiality statement in the bill to help protect trade secrets. He also said in March they would let out a bidder's book. Some lines will be buyable. The bids would be back in May and a decision would be made in the Fall.

Mr. Hubbell said loan guarantees may be a useful tool but direct money into these lines should be the first red flag. If a line is viable there is adequate money in the private sector. A loan guarantee would give a more favorable interest rate.

Secretary Stotts said at this point in time the state should not be buying or operating railroads. He said he would like to think that the Department is currently performing the things outlined in the two bills. The Department is currently sharing whatever information they can. We will go as far as we can within our fiscal limitations. He said before committing any money they would want some type of appropriation from the legislature. (See att. 11 on 3-19-91)

A motion was made by Sen. Sallee and was seconded by Sen. Doyen to approve the Minutes of February 27, 1991. Motion carried.

Meeting was adjourned at 10:00 a.m. Next meeting March 6, 1991.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 3-5-91 Place 254-E Time 9:02

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Joe Lieber	Topeka	Ks Co-op Council
Bill York	Andale	ATSF Shippers Assn.
Pat Hubbell	Topeka	Kans RR Assn
Don Lindsey Jr	Osawatomie	UTU
Lynn Rogers	Wichita	CoBank
Byron Ulery	Beloit	Farmway Coop
Don Swisher	Beloit	Farmway Coop
Tom Tunnell	Topeka	Ks Grain and Feed Assn
Loreen [illegible] McMillan	Topeka	Ks. St. Bd of Ag
Jeff Wagaman	Topeka	Senate Staff
Gary Stotts	Topeka	KDOT
Leroy Jones	Lenexa	BLE
John Scheirman	Topeka	KDOT
Janeen Grace	Topeka	KNRC
Molly Flock	Lawrence	Rep. Joan Adam

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 3-5-91 Place 254-E Time 9:02

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Mike Grogan	Topeka	Ks Auto Dealers Legislative Coalition
Diane Gruner	Topeka	Ks Co-op Council
Tom Whitaker	Topeka	Ks Motor Carriers Assn
Vic Moser	Hutchinson	Flatland Prof. Services
Greg Tugman	Topeka	Budget
M. Hawver	"	Cap-Journal
Bob Totten	Topeka	Ks Contractors Association

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).

ATT. 1
T & U
3-5-91

(316) 662-3059 • Fax (316) 662-2348

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.

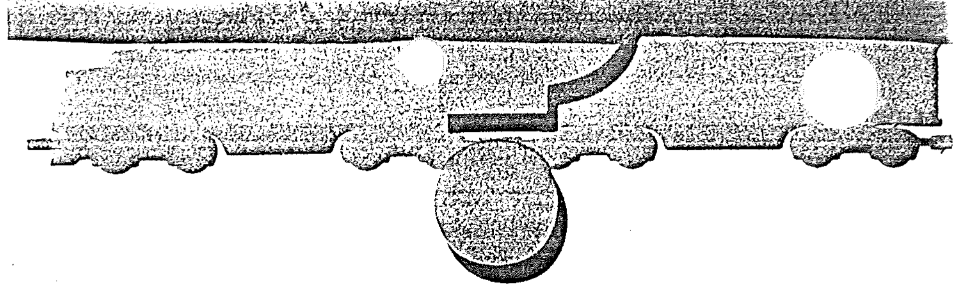
The direct impact of rail abandonment on your operation will be felt in higher freight rates and loss of traditional markets. Freight rates to long-distance markets will be higher by truck. It may not be feasible to ship direct if a market is more than 200 miles away.

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.

For more information on the subject covered in this article, write in No. 10 on the enclosed reader service card, or call Vic at (316) 662-3059.

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

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by Vic Mose
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. F&GI

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

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Testimony on Senate Bills 265 and 266

Acts Relating to Railroads; Service Improvement and Rehabilitation

Senate Transportation and Utilities 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.

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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 all residents of the State.

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 their 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, for years, 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 receiving volume and rail shipments on this line has remained steady if you discount 1988 and 1989; in fact there has been a gradual increase in both.

The recent drought reduced 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 Senate Bills 265 and 266 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 SENATE BILL NUMBER 265 AND 266

SENATE 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 SB265 and SB266 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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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 SB265 and SB266 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
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STATEMENT OF THE KANSAS GRAIN AND FEED ASSOCIATION

PRESENTED TO THE

SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

SENATOR BILL MORRIS, CHARIMAN

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 Senate bills 265 and 266.

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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 and would be happy to answer any questions.

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KANSAS RAILROAD ASSOCIATION

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SUITE 1120
TOPEKA, KANSAS 66612

PATRICK R. HUBBELL

913-357-3392

Statement of the
Kansas Railroad Association

Presented to the Senate Committee on
Transportation and Utilities
The Honorable Bill Morris, 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 Senate Bill 265 and Senate Bill 266. The Railroad Association suggests the following amendments to Senate Bill 266:

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 Senate Bill 265, 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.