

Approved 4-10-91  
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 April 2, 1991 in room 254-E of the Capitol.

~~At this time the following members were present:~~ Members present:

Senators Morris, Doyen, Brady, Hayden, F. Kerr, Martin, Rock, Sallee and Vidricksen.

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:

Robert E. Sherburne, Topeshaw Inc., Topeka  
Don Swisher, Farmway Co-op, Inc., Beloit  
W. Robert Alderson, Counsel, Mid States Port Authority  
Lynn Rogers, CoBank  
Vic Moser, President, Flatland Professional Services, Inc., Hutchinson  
Rep. Joan Adam  
Pat Hubbell, Kansas Railroad Association

The Department of Transportation distributed copies of 1991 Selected System Enhancement Projects. A copy is available in the Chairman's office.

Hearing on HB 2348 - Establishing the rail service improvement program.

Sen. F. Kerr discussed the differences in the bill which had been passed in the Senate, Sub. 265, and HB 2348. He said even though an interim study was needed there might be some activity this fall and we might be able to pass something this session.

Robert E. Sherburne said his business at Forbes Field has been confronted with the abandonment of the Missouri Pacific Railroad and they have appealed to our Congressional Delegation. They also have an amendment to the bill. A copy of his statement including the proposed amendment is attached. (Attachment 1).

Don Swisher said Santa Fe has slated for abandonment the Saline to Osborne branch which would adversely affect 4 communities which Farmway serves. They support this bill as a positive step toward the preservation of the Kansas Rail System. A copy of his statement is attached. (Attachment 2).

Bob Alderson said the Mid States Port Authority exists for the sole purpose of preserving adequate rail service within the territory served by the Authority. The Authority is composed of twelve counties. The Authority at this point is a financially viable entity. They support the general purpose underlying HB 2348. A copy of his statement is attached. (Attachment 3).

There was some discussion regarding that this bill would be for individual entrepreneurs and Mid States was composed of a consortium of counties.

Joe Lieber, Kansas Cooperative Council, submitted a statement dated April 2, 1991 in support of HB 2348. A copy of the statement is attached. (Attachment 4). It was read by Mr. Lynn Rogers.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:02 a.m./~~noon~~ April 2, 1991

Lynn Rogers said CoBank, as part of the Farm Credit System, has been serving agricultural cooperatives for over fifty years. The loss of rail service can be devastating to a grain and farm supply business as well as to rural America itself. They support this legislation. A copy of his statement is attached. (Attachment 5).

Vic Moser has a background as a state rail planner and is now an independent rail consultant. He recommended that only the loan guarantee program be implemented at this time. He urged passage of a bill to go into effect this year. A copy of his statement is attached. (Attachment 6).

Rep. Joan Adam spoke in favor of HB 2348 and spoke of the Iowa and Oklahoma assistance plans. A copy of her statement is attached. (Attachment 7).

Pat Hubbell said they were in opposition to the bill in its present form and had some amendments. A copy of his statement and amendments is attached. (Attachment 8). He also said he wished to clarify the Rail Assistance Program in the Iowa Plan. It was brought about because of three major bankruptcies in the state and they are operating mainline railroads. Some states are into mainlines and not branch lines. The traffic level is so low on some branch lines that the state would be subsidizing the lines. The loan to Mid States was not made until they were already making money. He said some short lines would work that are not totally tied to agriculture.

A motion was made by Sen. Doyen to approve the Minutes of March 26 and 27, 1991. Motion was seconded by Sen. Vidricksen. Motion carried.

Meeting was adjourned at 10:00 a.m. Next meeting April 3, 1991.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 4-2-91 Place 254-E Time 9:02

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Don Paulie		RCC
Josh Tura	Topoka	KCL
PAUL W. MATTHEWS	OKLA CITY	HIGHWAY USERS FEDERATION
Don Swisher	Beloit Ks.	Farmway Coop Inc.
Lynn Rogers	Wichita KS	CoBank
John Scheirman	Topoka	KDOT
Gary STOTTS	TOPEKA	KDOT
BOB ALDERSON	"	MSFA
HOWARD FERGUSON	SHAWNEE	UNITED TRANSPORTATION UNION
P. Kruggel	Sen. May leaders office	
Matt Towell	Topoka	AP
Pat Hahell	Topoka	Kansas RR ASSN.
Leroy Jones	Lenexa	BLE
Deb Miller	Topoka	KDOT
Robert Shechance	Topoka	Topoka

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 4-2-91 Place 254-E Time 9:02

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Bob Totten

Topeka

Ks Contractors Association

Dear Legislator,

Attached is a map of the Area South of Topeka to Forbes Field. Thereupon you will find the Project entitled Topeshaw of which I am a principal. The area East of US 75 (Topeka Blvd) to California Ave. (2 Miles) and from Forbes Field North to 45th St. and the existing City Limits has been approved by the State of Kansas as an Enterprise Zone. The Area also has been Zoned "Light Industrial" by the Topeka - Shawnee County Planning Agency. The entire area is volatile for development. It was determined by studies, the location and the proximity to Forbes and Interstate Highways that Topeshaw should become a Free Foreign Trade Zone under the Kansas City Charter.

However we have been confronted with the abandonment of the Missouri Pacific Railroad since 1988. This is the only line which can serve the Area described.

Topeshaw protested the abandonment thru all phases of appeal with the Interstate Commerce Commission. Our support for appeal included all the Congressional Delegation. The Shawnee Co. Legislative Delegation, all applicable City, County, and State Agencies, also the Property Owners, and the Kansas Corporation Commission.

I am here speaking to you in relation to Senate Bill #265 or House Bill # 2348 asking you to add certain verbage as follows:

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Senate Bill #265

Sec.7 (a) Line 30 after rehabilitation.

Also, all or any part of railroads previously abandoned, salvaged, and the Right-of-Way Corridor placed in "Railbanking" by the Interstate Commerce Commission:

Also Sec. 7 (e) Qualified Entity. Line 22

Private for profit Corporation established in accordance with Kansas laws.

Sec.8 (a) Line 35 same as 7 (a) above

Sec.8 (b) Line 4 same as 7 (a) above

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House Bill # 2348

Sec. 5 (a) Line 30 after rehabilitation

Same as Sec. 7 (a) Line 30 Senate Bill # 265 above.

Sec. 5 (c) Line 38

Same as Sec. 7 (a) Line 12 after rehabilitation same as Sec. 7 (a) Bill # 265 above.

Sec. 9 qualified entity after port authority private for profit corporation under Kansas law.

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This is the extent of our request. We would wish the approval and the support of the secretary of Transportation when we approach the Interstate Commerce Commission again.

Thank you,



TOPESHAW INC.

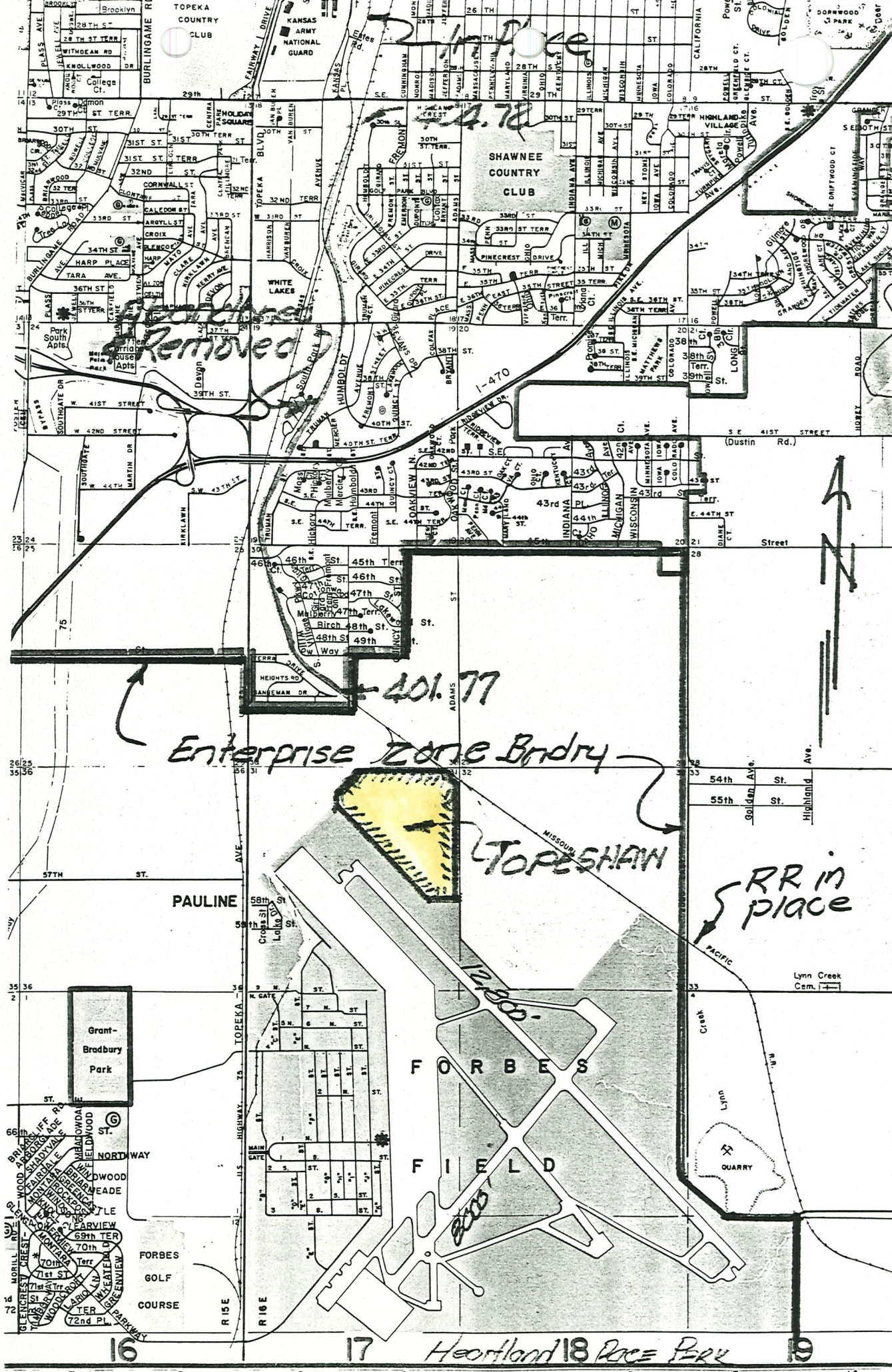
506 S.W. 6th St.

Topeka, Kansas 66603

ph. 235-6239

ATT. 1  
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4-2-91





*RR in place*

*Removed*

*401.77*

*Enterprise Zone Bndry*

*TOPEKA SHAW*

*RR in place*

**FORBES**

**FIELD**

*Heartland 18 Race Park*

Testimony on House Bill 2348

House Transportation Committee

April 2, 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 in Mitchell, Lincoln and surrounding counties in North-Central Kansas.

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 all residents of the State.

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(2)

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.

Our rail shipments on this line has remained steady if you discount the drought years of 1988 and 1989; in fact there has been a gradual increase.

I believe that in the near future, the Santa Fe will cease to operate this line. If this is true, we are left with 2 possibilities; the line will be abandoned and scrapped out, or a short line railroad could purchase the line from the Santa Fe and operate it.

It may 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.

We believe that the provisions of House Bill 2348 are positive steps toward the preservation of the Kansas Rail System and applaud the committees efforts.

On the other hand, I would remind the committee that many of these lines have been allowed to deteriorate to the point they are nearly inoperable. As an example, the Santa Fe Salina to Osborne branch suffered two de-rail incidents last wheat harvest while attempting to operate during the daylight hours when the heat causes excessive track expansion. Obviously, this should not occur on a well maintained track.



(3)

I would pray the committee would consider the long-term value of our rail system. In addition to the obvious fuel efficiency factor, we should consider the fact that several developing countries have the ability to produce grain and soybeans cheaper than we can. However, they lack the means to transport their crop to the coast for export. Ironically, we are dismantling our transportation infrastructure.

Considering the billions of dollars we annually pump into highway construction and repair, it would seem logical to put a few dollars into railroad repair.

ALDERSON, ALDERSON, MONTGOMERY & NEWBERY

ATTORNEYS AT LAW

2101 S.W. 21ST STREET

P.O. BOX 237

TOPEKA, KANSAS 66604-3174

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JOHN E. JANDERA  
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MEMORANDUM

TO: Senate Committee on Transportation and Utilities

FROM: W. Robert Alderson, General Counsel for  
Mid States Port Authority

RE: 1991 House Bill No. 2348 (As Amended by  
House Committee of the Whole)

DATE: April 2, 1991

The purpose of this memorandum is to provide the Senate Committee on Transportation and Utilities with relatively current information regarding the Mid States Port Authority ("Authority" or "MSPA") and to indicate MSPA's support of the general purpose underlying HB 2348.

The Mid States Port Authority is a public body corporate and politic, organized and existing under the authority of K.S.A. 12-3401 et seq., as amended, by agreement of the following fourteen (14) Kansas counties: Clay, Cloud, Decatur, Jewell, Norton, Phillips, Republic, Riley, Sheridan, Sherman, Smith, Thomas, Wabaunsee and Washington (collectively, the "Members"). Subsequent to MSPA's inception and organization, Wabaunsee and Riley Counties withdrew from the Authority.

The Authority exists for the sole purpose of preserving adequate rail service within the territory served by the Authority. It is governed by a Board of Directors comprised of one individual appointed by each Member County Commission and eight individuals elected at large and collectively by the Commissions of the Member Counties.

The population of the Member Counties is approximately 54,569. There are 62 banks with assets in excess of \$1,331,615,000. Agriculture is the principal economic activity along the railroad and the total annual agricultural production is in excess of \$519 million. Attached to this Memorandum as Appendix A are tables of statistics which provide the source for these figures.

In 1983, the Legislature agreed to guarantee a portion of a loan of \$18,000,000 from the Federal Railroad Administration to the Authority. The guarantee paved the way for MSPA to acquire a portion of the bankrupt Chicago, Rock Island and Pacific Railroad Company's right-of-way and track which runs from Limon, Colorado, in the west, to Belleville, Kansas, then to Clay Center, Kansas, and Hallam, Nebraska, being the eastern termination of the Authority's railroad. The property acquired includes approximately 465 miles of mainline track and right-of-way, approximately 40 miles of spur and siding track, 288 acres of real estate, depots, repair shops and bridges. Also acquired were various switching and communication equipment, tools and other items useful to the operation of rail service.

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Subsequently, under the Federal Government's deficit reduction program, various agencies were instructed to sell assets to generate new revenues. Pursuant to Public Law 100-457, the Federal Railroad Administration was instructed to dispose of \$99,000,000 worth of the assets it held. Among the assets the FRA identified for disposal were the Notes issued by MSPA and guaranteed by the State of Kansas. As part of the effort to sell its assets, the FRA agreed to sell MSPA's Notes back to MSPA for \$11,000,000. At that time, the notes plus accrued interest had a value of approximately \$20,000,000.

During the first five years of operations, MSPA was able to accumulate \$4,830,544 in cash. Thus, making various provisions for reserves and closing costs, MSPA was able to apply a portion of the cash on hand to reduce its current financing to less than \$7,000,000.

Because MSPA is a unique entity, as far as public bodies are concerned, lending institutions indicated that continuation of the guarantee of the State of Kansas was needed, in order to obtain ordinary bank financing. This was provided by Bank IV Wichita, N.A.

As a consequence, MSPA's property is now subject to a first mortgage and security interest in Bank IV, and the term loan agreement and accompanying promissory note are guaranteed by the state pursuant statutory enactments and annual appropriations to the Kansas Department of Transportation.

The Authority has a lease with Kyle Railroad Co. to provide rail service on the Property in Kansas and Colorado for a monthly amount of approximately \$50,700 and a lease with Union Pacific Railroad Company to provide rail service on a portion of the property in Nebraska for a monthly amount of \$24,000. The Kyle lease is for a term which corresponds with the financing and is at a rental amount which will guarantee repayment of the Authority's financing. The UP lease is for an original term of 10 years and is renewable for an additional ten-year period.

At this point, MSPA continues to be a financially viable entity. In addition to the revenues derived from the Kyle and UP leases, which are paid into an escrow account from which MSPA's debt to Bank IV is serviced, MSPA has annual operating funds of approximately \$185,000, which are derived from leases of ancillary right-of-way property. These revenues have enabled the Authority to make additional principal payments to Bank IV, in accordance with the term loan agreement.

The Authority's financial viability is due, in part, to the fact it has fulfilled its primary purpose of preserving quality rail service in the counties served by the authority. This, in turn, has stimulated the economy of Northwest Kansas and enabled Kyle Railroad to function in accordance with everyone's expectations. All of this has been facilitated by the state's guarantee of MSPA's indebtedness.

Thus, MSPA would encourage the continued expansion of a rail assistance program. As to the specifics of such program, MSPA will leave that to the sound discretion of the legislature.

APPENDIX A

The following tables describe population, financial and agricultural activity for each county that is a Member of the Mid States Port Authority:

<u>County</u>	<u>Population</u>	<u>Banks</u>	<u>Assets</u>
Clay	5,860	4	\$ 137,061,000
Cloud	9,494	8	148,186,000
Decatur	2,807	4	76,802,000
Jewell	2,665	7	58,434,000
Norton	4,361	5	88,883,000
Phillips	4,216	5	127,839,000
Republic	3,814	6	105,637,000
Sheridan	1,728	3	88,252,000
Sherman	5,708	2	103,317,000
Smith	3,523	5	104,507,000
Thomas	6,075	5	162,299,000
Washington	<u>4,318</u>	<u>8</u>	<u>130,398,000</u>
TOTAL	54,569	62	\$1,331,615,000

Source: American Bank Directory, Spring 1990

<u>County</u>	<u>Number of Farms</u>	<u>Total Land In Farms, Acres</u>	<u>Total Acres Harvested</u>	<u>Total Value of Field Crops \$</u>	<u>Livestock Value</u>
Clay	680	395,000	129,200	\$ 12,500,500	\$ 21,368,700
Cloud	660	415,000	129,700	13,200,600	10,860,600
Decatur	490	545,000	185,760	16,302,300	24,638,100
Jewell	740	520,000	210,050	21,695,300	22,877,000
Norton	480	526,000	146,100	12,484,400	13,926,100
Phillips	600	559,000	131,050	12,942,800	18,451,900
Republic	840	445,000	237,000	36,101,700	22,674,000
Sheridan	520	535,000	206,870	29,380,000	19,645,300
Sherman	530	650,000	253,680	38,661,500	15,912,300
Smith	700	565,000	197,550	20,831,600	21,049,600
Thomas	640	680,000	316,920	44,867,900	14,949,400
Washington	<u>960</u>	<u>540,000</u>	<u>230,350</u>	<u>20,651,400</u>	<u>33,786,400</u>
TOTAL	7,840	6,375,000	2,374,230	\$279,620,000	\$240,139,400

SOURCE: Kansas Farm Facts, 1989



Testimony on House Bill 2348  
Senate Transportation Committee  
April 2, 1991  
Prepared by Joe Lieber  
Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 local cooperatives which have a combined membership of nearly 200,000 Kansas farmers and ranchers.

The Council supports the intent of HB 2348 which will help maintain rail service to rural Kansas. HB 2348 is not only a transportation bill, it is also a rural development bill. Many communities are far enough away from urban centers that the only economical way to ship and receive goods is by rail.

The economics of Kansas, as well as the nation's, depends on the capability to ship our agricultural products to the cities as well as to export facilities.

HB 2348 will help keep the system intact. Adequate rail service will help the economy of Kansas as well as preserve rural Kansas.

Thank you.

**Statement by Lynn Rogers**  
**Public Affairs Manager**  
**CoBank - National Bank for Cooperatives**  
**April 2, 1991**

My name is Lynn Rogers and I serve as the Public Affairs Manager for CoBank - National Bank for Cooperatives. I want to thank this committee for your continued interest in the transportation needs of the agriculture industry.

CoBank, as part of the Farm Credit System has been serving agricultural cooperatives for over fifty years. We serve 195 out of 201 agricultural cooperatives in Kansas. To these Kansas-owned businesses, railroad service means a lot. Millions of bushels of grain and thousands of tons of fertilizer are shipped every year through these businesses. In many cases, the railroad also owns the land that the cooperative uses for the co-op's elevator facilities.

The legislation currently in the Kansas Legislature (House Bill #2348 and Substitute Senate Bill #265) will provide options to these co-ops and other rural businesses. From past experience, the loss of rail service can be devastating to a grain and farm supply business as well as rural America itself. The current proposed legislation shows that the State of Kansas views our railroads as as important as our highways and that a dual transportation system has economic value for the state, taxpayers and industry.

As a lender, CoBank has been following this issue because we want to see our customers protected as much as possible. We have encouraged them to join together with other shippers and look at every option. If we are approached to provide financing for a railroad, we will look first to the feasibility of such a project. Having a state guarantee will not insure a loan is made, but will help make the proposal more "bankable".

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Overall, CoBank supports the intent of this legislation because it will continue to give agriculture and other industries competitive options.

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TESTIMONY OF VICTOR C. MOSER

President, Flatland Professional Services, Inc.  
Hutchinson, Kansas

April 2, 1991

CONCERNING: Senate Bill 265 and House Bill 2348

Mr. Chairman, I once again thank this committee for the opportunity to support the rail service assistance program as embodied in Senate Bill 265 and House Bill 2348. Please accept my apology for not appearing in person. My father's house and farm as well as those of many others near Abbyville were struck by a tornado last Tuesday and I am needed there.

Please understand that my absence here today does not indicate a lessened interest in the enactment of this legislation. My twenty-two years of experience in transportation including that as a state rail planner within the Kansas Department of Transportation and now as an independent transportation consultant lead me to the strong conclusion that state financial assistance is critical to the survival of rail service in rural areas.<sup>1</sup>

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<sup>1</sup> I was employed as a civil engineer by the Kansas Highway Commission in 1969. I held various responsibilities as road designer, urban planner, and 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 1983, I founded Flatland Professional Services in Hutchinson to offer transportation consulting services. I have testified before the U.S. Senate Committee on Transportation and Utilities, the Interstate Commerce Commission, committees of the Kansas Legislature, and as an expert in federal district court. I have served as member and chairman of the State Advisory Committee on Rail Planning.

In my testimony on March 5th concerning these bills, I said that rail service is essential to the State's economic well-being, that shortline railroading is legitimate and that the establishment of shortlines for the purpose of operating Kansas branchlines will act to restore adequate rail service and save branchlines. I pointed out that the biggest problem faced by a new operation is capital for purchase and rehabilitation of track. I advocated state involvement in rail financing in order to establish a balanced transportation system which would provide for the service needs of Kansas shippers and lay the foundation for future economic development.

I am pleased that these bills have moved forward and in their present versions embody most of the recommendations of the conferees. Today, I have the pleasant duty of favoring one bill over the other. I say "pleasant" because both are headed in the right direction. Both provide financial support which is critically needed at this time in consideration of the large number of lines which are abandonment candidates. Both recognize economic feasibility as the basis of the award of state assistance.

I favor the Senate version, first because it embodies the formation of a program advisory committee. Public input should be sought in the development and administration of program rules and regulations. I say this from my own experience as a former administrator of the state rail planning program and as the director of a task force which was given the task of finding ways to restore service on the failed Rock Island Railroad. During that time I relied heavily on the state advisory committee on rail planning for solid "real world" counsel. The advice of these people who represented the



railroads, rail labor, and the shipping public helped us to discard the poor ideas and fine tune the good ones. Because it broadened our sources of information, we were alerted to trends that never would have been discovered. I attribute the success we had in those days in large part to this committee.

The fact is that transportation is dynamic. The complexities of industry trends, international and domestic markets, federal legislation and administrative rulings require constant monitoring. But unlike the system of public roads where policy is controlled by various levels of government, railroad policy is determined largely by economics and certainly not in the public arena. Therefore, the opinions and experience of those involved on a daily basis with shipping, operation of railroads, and financing capital projects is essential for the development of a successful rail service improvement program. I will add that the concept of an advisory committee was supported by all conferees in the March 5th committee hearings.

The other major difference between the two bills is that House Bill 2348 establishes both a loan and loan guarantee program while Senate Bill 265 establishes only a loan guarantee program. The source of funding for loans is the federal rail service continuation program.

It is my recommendation that only the loan guarantee program be implemented at this time. It would be difficult to practically differentiate between two parallel loan programs. (What type of project is eligible for which program?) Further, as Kansas share of current federal funding limited to about \$30,000, the loans would be insignificant in comparison to loan guarantees. The result would be a serious imbalance between programs having similar intent and

qualification requirements. Federal and state criteria for use of the federal funds as a grant requiring recipient participation in the amount of 30% is established and the program is ongoing. A dual program of state loan guarantees and federal grants would be much simpler to design and implement.

Finally, I urge you to amend and pass these bills in their final version in order to put the rail service improvement program into effect this year. There will never be a more critical need and as you know, there is nothing of less worth than a good idea that comes too late.

Again, thank you for the opportunity to support the rail service improvement program.

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.

H.B. 2348 is intended to reverse this trend and to provide a mechanism to keep the most viable lines operating. H.B. 2348 as amended by the House Committee in the full committee of the whole establishes a rail service improvement program within KDOT for the purpose of improving rail service within the state. The bill gives the secretary more authority to work with shippers and existing railroads to keep viable rail lines operating or if appropriate to assist shippers or others in purchasing short lines for regional use. The bill allows KDOT to appear before regulatory bodies in support of approved rail service.

H.B. 2348 establishes a loan fund. H.B. 2348 a loan guarantee fund not to exceed \$5 million in any fiscal year for the purpose of facilitating the financing acquisition or rehabilitation of rail lines. 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.

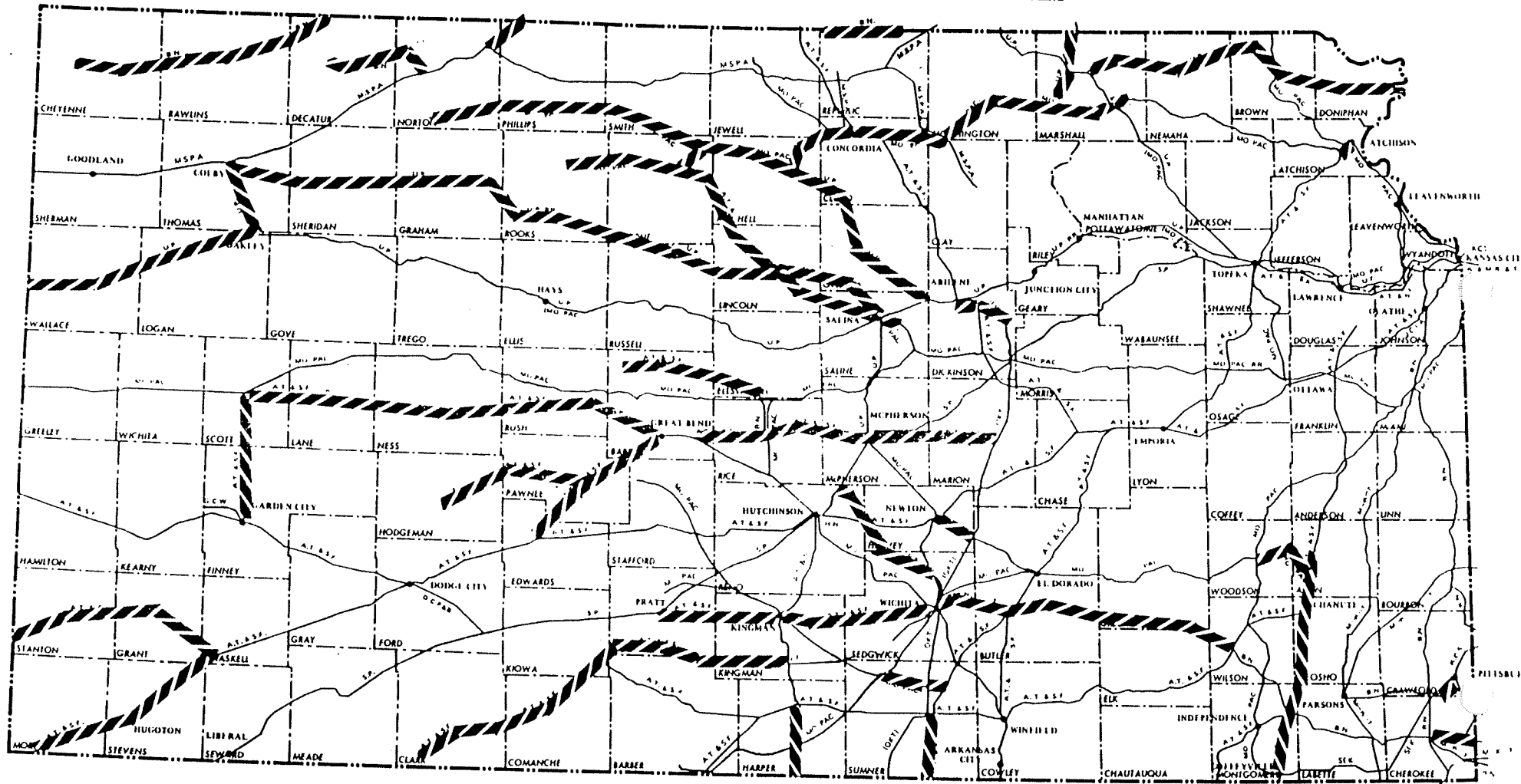
In addition H.B. 2348 authorizes a loan fund which will allow KDOT to loan out Federal Funds it receives at the present time. Should the legislature authorize additional funds for this loan fund additional loans may be made.

Mr. Chairman I have indicated the need that exists for these bills and the general intent of this 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 - LIGHT DENSITY LINES \*



### KEY TO ABBREVIATIONS

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

ment.

"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.

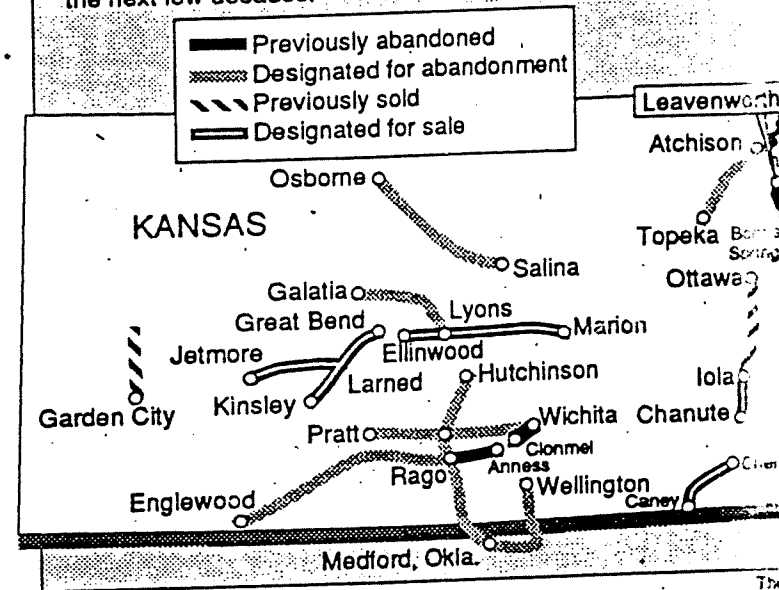
Kansas currently has 6,800 miles of track, down from the peak in 1940, when it had 13,000 miles crisscrossing the state. A 1989 report to Hayden said Kansas had lost 573 miles of track since 1980.

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

## 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.



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 with scant profits must take risk, said John Scheirman, the state Department of Transportation's Bureau of Rail Affairs

# 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

*Joan Adams*

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# KANSAS RAILROAD ASSOCIATION

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## Statement of the Kansas Railroad Association

Presented to the Senate Committee on  
Transportation and Utilities  
The Honorable Senator Bill Morris, Chairman

Statehouse  
Topeka, Kansas  
April 2, 1991

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. The Railroad Association is opposed to House Bill 2348 in its present form and would suggest the following amendments:

New Section 1. The legislature finds and determines that integrated 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 finds that a portion of the present railroad system in the state does not provide adequate service to citizens of the state. 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 program to provide assistance for the preservation and revitalization of rail service in the state, including the guarantee of loans pursuant to Section 7 of this act.

New Section 3. There is hereby established the rail service assistance program advisory committee hereinafter referred to as the advisory committee. The advisory committee shall be advisory to the secretary of transportation.

New Section 4. The advisory committee shall consist of nine members appointed by the governor as follows:

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(a) Two shall be rail shippers;

(b) two shall be representatives of railroad management, one shall represent a class I railroad and one shall represent a regional or short line railroad;

(c) two shall represent railroad labor, one shall be an employee of a class I railroad and one shall be an employee of a regional or short line railroad; and

(d) three shall represent the general public. A person appointed to fill a vacancy which occurs prior to the expiration of a term shall be appointed for the unexpired term. Each member of the advisory committee shall be appointed for a three-year term.

New Section 5. (a) The advisory committee shall organize annually by the election from its membership of a chairperson and a secretary. The advisory committee may adopt such rules of procedure as the committee deems necessary for the conduct of business.

(b) The advisory committee shall meet at least four times a year. The chairperson may call additional meetings. A majority of members shall constitute a quorum.

(c) Members of the advisory committee attending meetings of such committee shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

New Sec. 6. The advisory committee shall have the following functions, powers and duties:

(a) To assist the secretary of transportation in setting priorities under the rail service assistance program;

(b) to assist in the development of criteria for eligibility and approval of projects under the rail service assistance program, such criteria shall include, but not be limited to, the anticipated economic and social benefits to the state and to the area being served and the economic viability of such projects;

(c) to assist in the establishment of criteria for loan guarantees under the rail service assistance program; and

(d) to provide such advice and assistance as the secretary of transportation deems necessary in carrying out the provisions of the rail service assistance program.

New Sec. 7. (a) The [Subject to the provisions of subsection (f), 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. [Any loan guaranteed by the secretary of transportation pursuant to this section, at a minimum, shall meet the following requirements:

[(1) The ratio of benefits to costs for any project funded by such guaranteed loan shall be greater than one. The benefit/cost methodology to be used for this determination shall be the most recent standard benefit/cost methodology approved by the federal railroad administration of the United States department of transportation;

[(2) the qualified entity shall demonstrate that it is financially sound and capable of fulfilling all obligations created by the proposed loan guarantee agreement; and

[(3) the qualified entity shall demonstrate that adequate funding for the proposed project is not otherwise available, on terms that would make the proposed project financially feasible, in the absence of a state loan guarantee.

[(c) Prior to any loan being guaranteed under the provisions of this section, the secretary of transportation shall make a determination as to whether the guaranteeing of such loan would adversely affect the rating of bonds issued pursuant to K.S.A. 1990 Supp. 68-2314 et seq., and amendments thereto. If the guaranteeing of such loan would adversely affect the rating of such bonds, the secretary of transportation shall not guarantee such loan. Such determination shall be documented in writing by the secretary of transportation.]

{e} [(d)] The secretary of transportation may adopt rules and regulations consistent with and for the purpose of implementing the provisions of this section, including the criteria and priorities contained in subsections (a) through (d) of section 6 of this act.

{d} [(e)] "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 this section.

[(f) The secretary of transportation shall not enter into any agreement to guarantee a loan under the provisions of this section unless such action has been authorized by act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval may also be given when the legislature is in session.]

New Sec. 8. (a) The rail service assistance program loan guarantee 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 assistance program in sections 1 through 8 and for the refinancing thereof. The secretary of transportation shall administer the rail service assistance program loan guarantee fund. All expenditures from the rail service assistance program loan guarantee 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 assistance program loan guarantee 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.

Sec. 9. K.S.A. 1990 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public; and

(E) would not endanger the life or physical safety of any person.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identify of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available under existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public

agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate, except that:

(A) The name, sentence data, parole eligibility date, disciplinary record, custody level and location of an inmate shall be subject to disclosure to any person other than another inmate; and

(B) the ombudsman of corrections, the corrections ombudsman board, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.

(33) Engineering and architectural estimates made by or for any public agency relating to public improvements.

(34) Financial information submitted by contractors in qualification statements to any public agency.

(35) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(36) Any report or record which is made pursuant to K.S.A. ~~1988~~ 1990 Supp. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or K.S.A. ~~1988~~ 1990 Supp. 65-4925, and amendments thereto.

(37) Information which would reveal the precise location of an archeological site.

(38) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the

individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information no descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 10. K.S.A. 1990 Supp. 45-221 is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I appreciate the opportunity to present this amendment.  
Thank you Mr. Chairman.