

Approved: Carl Dean Holmes  
Date 3-7-95

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on February 2, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Flora - Excused  
Representative Hutchins - Excused  
Representative Kline - Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: John Badger - KS Dept of Social & Rehabilitation Services  
Mike Lackey - KS Department of Transportation

Others attending: See attached list

Chairperson Holmes announced that Karl Mueldener is scheduled to present a briefing to the Committee on February 13, regarding the Clean Water Act and Safe Drinking Water Act; on February 14 Committee hearings will be held in Room 313-S at 3:30 p.m. on **HB 2159** and **HB 2160**.

The Chair referred the Committee to a synopsis before them from the Topeka Capital Journal reviewing a program scheduled over the next 13 weeks on PBS entitled Sunflower Journeys. He explained the subject matter addresses water issues in the State of Kansas, and with its direct relevance to this Committee members might wish to watch some or all of the series.

Hearing were then opened on **HB 2158**:

**John Badger.** Mr. Badger appeared before the Committee stating their Department has some concern regarding the language of the **HB 2158**, contending that it is perhaps broader than what is intended. He explained federal grants are often issued to cover multiple year periods, modifications occur frequently and the timing of the legislative approvals required by this legislation could present serious problems and result in significant delays in obtaining federal funds. Due to the various timing problems, Mr. Badger recommends that the Committee consider modifying the language to exempt federal grants from the approval requirements contained in the act. (See Attachment #1.)

**Mike Lackey.** (See Attachment #2.) Mr. Lackey stated that if **HB 2158** is intended to take precedence over the current law, the proposed legislation would make it difficult for the Department to carry out its responsibilities effectively. Explaining the Department participates in three basic types of federally-funded contracts, these contracts often require a continued emphasis or level of effort after the federal program has expired.

Mr. Lackey said this legislation would affect highway construction. Most highway improvements of any significant size require more than one construction season to complete, so most of the large Federal-Aid projects in the Department's highway improvement program would require legislative approval. The Department could conceivably be required to obtain approval each time one of these changes occurred. Additionally, Mr. Lackey said the resulting delay would subject Kansas' highway projects to individual review and scrutiny (that has proved devastating to other states' ability to plan and manage highway improvement programs.)

There would be a restriction to apply for bonus spending authority and redistribution of unused federal spending authority. Mr. Lackey pointed out that the Department has been able to obtain an average of \$7.5 million in additional federal funds during each of the past three years by taking advantage of federal spending authority not used by other states.

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

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on February 2, 1995.

Another area of concern to the Department is the Department's ability to make timely applications for emergency funding, referring to the \$19 million in federal funds received for the 1993 flood damage.

Finally, Mr. Lackey said the Federal Highway Administration participates in the funding of design work and other pre-construction activities on projects that the Department plans to construct (using Federal-Aid funds). When hiring through contractual agreements with outside consultants, the approval process would add another cumbersome and time-consuming step to the process of contracting for project development work.

Mr. Lackey summarized his opposition to **HB 2158** stating the requirements imposed are so restrictive that resulting delays would make expeditious processing an impossibility.

Chairperson Holmes announced data in his possession from past years with reference to the issue before the Committee today (document by the Corps of Engineers), and invited members to peruse his file at their convenience. Additionally, he shared comments in a document authored by an individual in the Department of the Wildlife and Parks.

Upon completion of its business, the meeting adjourned at 4:30 p.m.

The next meeting is scheduled for February 6, 1995.

# HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: February 2, 1995

NAME	REPRESENTING
Mike Lacey	KDOT
Nancy Bogina	KDOT
Chas Starfield	KDHE
Bill Bidor	KDHE
Michelle Peterson	Ks Gov Consulting
DARRELL MONTEI	KDWP
Gerald Schneider	KDHR
Bob Wunsch	KUMC
Glenda Mah for Dale Lambley	Kans. Dept. Agric. Plant Health Div
TED MAURIN	SRS
John Baker	SRS
Woody Moses	Ks. Aggregate Producers Assn.
Anne Spiess	Ks. Assoc. of Counties
STEVE KEARNEY	WMX TECHNOLOGIES, INC.
JOHN C. BOTTENBERG	Dorffenberg

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Janet Schalansky, Acting Secretary

Before the House Committee on Energy and Natural Resources  
February 2, 1995

House Bill No. 2158

Mr. Chairman and members of the Committee, on behalf of Acting Secretary Schalansky, I thank you for the opportunity to appear here today to present testimony on House Bill No. 2158.

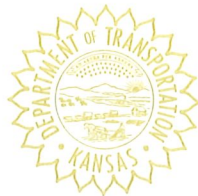
The Department of Social and Rehabilitation Services is not opposed to what it believes this legislation is intended to do. However, we are concerned the language may be broader than what is intended. Depending on how the term "contract" is defined it may include the various grants the department enters into with the federal government. During FY 94 SRS had approximately 70 revenue funds representing 35 different federal programs. Since federal grants are often issued to cover multiple year periods, and modifications occur frequently, the timing of the legislative approvals required by this legislation could present serious problems and result in significant delays in obtaining federal funds. This problem with timing would be further complicated because although the federal fiscal year begins on October 1 of each year, federal awards may routinely be issued at any time. If, because of these timing problems, the department was unable to obtain the necessary legislative approvals, many of these agreements with the federal government may be null and void under this act and essential federal funding may be delayed or lost.

For these reasons it is respectfully requested that if this committee intends to act favorably on House Bill No. 2158, it consider modifications to the language to exempt federal grants from the approval requirements contained in the act.

Thank you.

John Badger  
Chief Legal Counsel  
Kansas Department of Social  
And Rehabilitation Services  
913/296-3967

*2/2/95*  
*Energy & Natural Resources*  
*Attachment #1*



**KANSAS DEPARTMENT OF TRANSPORTATION**

E. Dean Carlson  
*Secretary of Transportation*

*Docking State Office Building  
Topeka 66612-1568  
(913) 296-3566  
TTY (913) 296-3585  
FAX (913) 296-1095*

Bill Graves  
*Governor of Kansas*

**TESTIMONY BEFORE  
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE  
February 2, 1995**

**REGARDING HOUSE BILL 2158**

Mr. Chairman and Committee Members:

I appreciate the opportunity to appear before you today in behalf of the Kansas Department of Transportation regarding H.B. 2158. This bill would require state agencies to obtain legislative approval for all contracts with the federal government that will require appropriation of funds from the state treasury for more than one year.

We are uncertain whether H.B. 2158 is intended to take precedence over K.S.A. 68-401-407, which provides authority to the Department of Transportation to accept Federal aid. If it does not take precedence, its effect on the Department would be minimal. If it does take precedence over current law, the proposed legislation would make it extremely difficult for the Department to carry out its responsibilities effectively. Therefore, we must strongly oppose H.B. 2158.

The Department of Transportation participates in three basic types of federally funded contracts. We receive minimal amounts of short-term federal funding for program development, primarily in the safety area. Federal traffic safety programs are often multi-year programs that offer "seed money" to encourage states and localities to provide additional resources for specific programs. These agreements (contracts) often require a continued emphasis or level of effort after the federal program has expired. Depending on the program, this commits the state to a continued allocation of resources beyond the federal program. The intent is to create and institutionalize new traffic safety initiatives.

KDOT has historically not retained a large percentage of federal safety funds for programs the agency administers directly. Most of these funds are passed on to other state agencies (such as the Kansas Highway Patrol) and local units of

government. If this legislation is passed and the state declines to receive the funds because ongoing financial commitments are required, it is likely the funds would be passed on to local units of government instead. This would shift approximately \$1.8 million in funding from state agencies to local units of government.

The second area that this legislation would affect is highway construction. As we understand its intent, H.B. 2158 would apply to the Department's capital improvement program on a project-specific basis. Federally funded highway projects each require a signed agreement between the Department and the Federal Highway Administration. Most highway improvements of any significant size require more than one construction season to complete, so most of the large Federal-Aid projects in the Department's highway improvement program would require legislative approval.

This approval process would be extremely difficult to manage. We could provide a list of projects annually; however, the timing, scope, and cost of those projects often change as they proceed through plan development, right-of-way acquisition, and bid letting. The Department could conceivably be required to obtain approval each time one of those changes occurred. In addition to the delay that would inevitably result, the proposed legislation would subject Kansas' highway projects to the type of individual review and scrutiny that has proved so devastating to some other states' ability to plan and manage their highway improvement programs.

This bill would restrict the Department's ability to apply for bonus spending authority and redistribution of unused federal spending authority, which generally become available each August. The Department has been able to obtain an average of \$7.5 million in additional federal funds during each of the past three years by acting promptly and taking advantage of federal spending authority not used by other states.

We are also concerned that this legislation could adversely affect the Department's ability to make timely applications for emergency funding, such as the \$19 million in federal funds that we received in 1993 due to flood damage. If the Legislative Coordinating Council is not scheduled to meet almost immediately when an emergency occurs, the review process could delay an application for such funds.

The final type of agreement that would be affected by this legislation includes contracts for preliminary engineering services. The Federal Highway Administration participates in the funding of design work and other pre-construction activities on projects that the Department plans to construct using

Federal-Aid funds. Those services may be provided by Department staff or through contractual agreements with outside consultants. Some preliminary engineering services, such as archeological surveys, are carried out by other state agencies, which are reimbursed for those services at the appropriate matching ratio of state and Federal funds.

One of the primary concerns in hiring design consultants is to move quickly from the decision to contract with a consultant to the authorization for the consultant to begin work. Project development requires an average of three years, and the timing, scope, and cost of activities often change during that time. As we understand it, the proposed legislation would require us to obtain legislative approval to initiate federally funded project development activities and to obtain legislative approval to supplement those contracts by stages, as the design develops. This approval process would add another cumbersome and time-consuming step to the process of contracting with outside consultants for project development work.

In summary, we believe the requirements imposed by H.B. 2158 are so restrictive that the resulting delays would make expeditious processing of the Department's contracts an impossibility. Complying with those requirements would significantly reduce the efficiency and productivity of our efforts to meet the transportation needs of the people of Kansas. As a result, we must strongly oppose this bill.