

Approved: 1-29-98
Date

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary K. Hayzlett at 1:30 p.m. on January 21, 1998 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Reed Hohlwegner, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
J. Patterson, Committee Secretary

Conferees appearing before the committee: Tom Whitaker, Kansas Motor Carriers Assoc.
Don McNeely, KADA Executive Vice President
Doug Wareham, Kansas Grain and Feed Dealers
Staff
Dean Carlson, Secretary of Transportation

Others attending: See attached list

Tom Whitaker, with the Kansas Motor Carriers Assoc., was called on first to begin introduction of bills. He asked for the committee to introduce legislation that would provide permanent license plates for vehicles operated by interstate carriers that utilize apportioned fleet registration. (Attachment 1)

Representative Dillon made a motion to introduce this bill, seconded by Representative Correll and the motion carried.

Don McNeely, KADA Executive Vice President, introduced an amendment to K.S.A. 8-135 regarding the ability to void a sale of a motor vehicle at anytime after the date of sale, if the title or manufacturers statement of origin is not delivered within 30 days. (Attachment 2)

Representative Shore made a motion to introduce this bill, seconded by Representative Howell and the motion was carried.

Doug Wareham, Kansas Grain and Feed Dealers, introduced a bill known as "The Railroad Leasing Act". The Railroad Leasing Act protects businesses/tenants that lease railroad property from unconscionable lease contract provisions. (Attachment 3)

Representative Schwartz made a motion to introduce this bill, seconded by Representative McKinney and the motion carried.

Representative Flower asked for a bill introduction regulating traffic concerning bicycles single-file; amending K.S.A. 1997 Supp. 8-1590 and repealing the existing section. (Attachment 4)

Representative Flower made a motion to introduce this bill, seconded by Representative Powers and the motion was carried.

Committee introduced a bill regarding vehicles when they relate to terminal rent adjustment clauses. (Attachment 5)

Representative Shore made a motion to introduce this bill, seconded by Representative Dillon and the motion was carried.

Committee introduced a bill that would require the installation of rumble strips at certain intersections. Even though staff presented information, Representative Thiemesh was the sponsor. (Attachment 6)

Representative Powers made a motion to introduce this bill, seconded by Representative Flowers and the motion carried.

Representative McClure requested a resolution to Congress regarding CDL's.

Representative Howell made a motion to introduce this bill, seconded by Representative McKinney and the motion was carried.

Secretary of Transportation Dean Carlson gave a presentation regarding Federal Transportation Legislation. Updated committee on ISTEA. (Attachment 7)

Meeting adjourned at 2:40 p.m. Next meeting scheduled on January 27, 1998.



KANSAS MOTOR CARRIERS ASSOCIATION

P.O. Box 1673 ■ Topeka, Kansas 66601-1673 ■ 2900 S. Topeka Blvd. ■ Topeka, Kansas 66611-2121
Telephone: 785.267.1641 ■ FAX: 785.266.6551 ■ e mail: kmca@kmca.org

"If you've got it, a truck driver brought it!"



DARRELL ROSE
Dillon Stores Company
President

MICHAEL J. MAIER, II
Consolidated Freightways
Chairman of the Board

LESLIE J. UNRUH
Unruh Grain, Inc.
First Vice President

JERRY ARENSDORF
Arensdorf Trucking, Inc.
Second Vice President

JOHN LAHTROP
Roadway Express
Treasurer

LARRY "DOC" CRIQUI
Bailey Moving & Storage Co.
Corporate Secretary

HAROLD HESS
Magill Truck Line
ATA State Vice President

KELLY RECTOR
WSKT, Inc.
Alternate to ATA State Vice President

MIKE KELLEY
Executive Director

Request of the House Transportation Committee Rep. Gary Hayzlett, Chairman

For Introduction of Legislation

From The

Kansas Motor Carriers Association

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, director of governmental relations and membership services for the Kansas Motor Carriers Association. I appear here this afternoon on behalf of our members and the highway transportation industry. The Kansas Motor Carriers Association is the statewide association that represents the Kansas trucking industry and those who supply goods and services to the industry.

We are here respectfully to ask this Committee to introduce legislation that would provide permanent license plates for vehicles operated by interstate carriers that utilize apportioned fleet registration. Our industry operates vehicles all across the nation, and physically changing a license plate has become a logistical nightmare. Safeguards are currently in place to assure proper annual registration of such vehicles and collection of property tax, fuel tax and other regulatory fees.

We have worked closely with Betty McBride, director of vehicles, Kansas Department of Revenue, and Al Gerstner, bureau chief, Motor Carrier Services Bureau, to develop this legislation.

In addition, with the Chairman's permission, we would be pleased to offer this Committee a "mini seminar" on registration and fuel tax requirements for interstate carriers.

Thank you for the opportunity to present our request for introduction of this legislation. I would be pleased to respond to any questions you may have.

House Transportation
1-21-98
Attachment 1



KANSAS AUTOMOBILE DEALERS ASSOCIATION

January 21, 1998

To: Chairman Gary Hayzlett
and the House Transportation Committee

From: Don McNeely, KADA Executive Vice President

Re: Bill Introduction Request - Title Delivery Amendment to K.S.A. 8-135

Chairman Hayzlett and Members of the Committee:

My name is Don McNeely, Executive Vice President of the Kansas Automobile Dealers Association, a state trade association representing the 287 franchised new car and truck dealers in the state of Kansas.

I appear before you to request introduction of an amendment to K.S.A. 8-135 regarding the ability to void a sale of a motor vehicle at anytime after the date of sale, if the title or manufacturers statement of origin is not delivered within 30 days. Attached to this cover page is language drafted which would prohibit the ability to void the sale of a motor vehicle if title or manufacturers statement of origin is delivered and accepted by the purchaser after 30 days from the date of sale.

Under our proposal, a purchaser of a motor vehicle could still void the sale of a motor vehicle if the title or manufacturers statement of origin is not delivered within 30 days of sale, but any purchaser who decides to accept the title or manufacturers statement of origin after 30 days from the date of sale, may not come back and void the sale of a motor vehicle months later for that reason alone.

On behalf of the Kansas Automobile Dealers Association, I respectfully request the introduction of this bill proposal. Thank you.

800 S.W. Jackson, Suite 1110 • Topeka, KS 66612
Telephone (913) 233-6456 • Fax (913) 233-1462

House Transportation
1-21-98
Attachment 2

The paragraph below would be added to the end of K.S.A. 8-135, as amended, as subsection (c)(11):

“Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturers statement of origin, as applicable, any person who has received and accepted assignment of the certificate of title or manufacturers statement of origin for the vehicle in issue may not thereafter avoid or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturers statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.”

Railroad Leasing Act Summary

Why is this legislation needed?

Several Concerns Have Been Identified:

- Unconscionable (Unreasonable) Lease Contract Provisions
- Exorbitant Railroad Property Lease Rate Increases
- No first right of refusal in the event of the sale of leased property
- No compensation for improvements in the event of eviction
- No property rights in cases of abandonment

What will this legislation accomplish?

1. The Railroad Leasing Act protects businesses/tenants that lease railroad property from unconscionable (unreasonable) lease contract provisions.

- This act establishes guidelines for clauses that can not be included in a railroad property lease contract. Two critical components of the Railroad Leasing Act include providing tenants of railroad property six months to remove improvements when leases are terminated and restricting the inclusion of "hold harmless" clauses which limit the liability of railroads.

2. The Railroad Leasing Act provides businesses/tenants of railroad leased property with a process to resolve disagreements regarding fair lease rental for the property.

- This act enables person/tenants of railroad leased property to make a written application to

For more information contact:

Kansas Grain and Feed Association/ Kansas Fertilizer and Chemical Association

816 SW Tyler ♦ Topeka, KS 66601

P: 785-234-0461 ♦ F: 785-234-2930

Doug Wareham, Vice President, Government Affairs

House Transportation
1-21-98
Attachment 3

the Kansas Corporation Commission (KCC) to resolve disagreement regarding fair lease rental for the property. The act establishes a three-party appraisal process to be used by KCC for determination of fair lease rental for railroad property.

3. The Railroad Leasing Act provides business/tenants located on railroad leased property the first opportunity to purchase their leased lot when a railroad seeks to sell its interest in that property.
 - This act protects businesses/tenants located on railroad leased property from having lessor's rights sold to a third party which may drastically increase rental rates for the property or simply evict the tenant. The act establishes a three-party appraisal process for resolving disagreements in fair market value (sales price), when railroads sell their interest in railroad land.
4. The Railroad Leasing Act places enforcement of its provisions in the hands of the local county court and deems any legal action arising out of a lease as an action concerning real property.
 - This act affords any party the right to have the local county court resolve any uncertainties or differences regarding railroad-leased property.
5. The Railroad Leasing Act provides a safeguard against any unfair or unjust railroad lease provision or settlement by enabling local county courts to refuse or limit the application of any unreasonable provision within a property lease contract.

- This act also enables local county courts to refuse or limit any settlement it deems unfair or unjust.
6. The Railroad Leasing Act protects businesses/tenants located on railroad leased property from being evicted without being fully compensated for good faith improvements made to the leased property.
 - This act enables the local county court to determine the compensation due when improvements have been made to railroad leased property.
 7. The Railroad Leasing Act enables tenants located on railroad leased property which are public grain warehouses to acquire by condemnation any interest in the railroad land, including fee simple title when leases are terminated or subject to termination by reason of abandonment by the railroad.
 - This act grants a right of condemnation to state or federally licensed grain elevators in the event of abandonment or sale of leased premises by the railroad. Grain elevators firms located on railroad-leased property being abandoned would pay just compensation to landowners in accordance with the Kansas Eminent Domain Procedure Act.

3-2 32

RAILROAD LEASING ACT

AN ACT relating to leases of railroad lands; establishing rights, duties, obligations, and remedies for certain tenants of railroad land.

WHEREAS, Railroads have historically enjoyed the protection and benefit of governmental assistance, including grants of land and rights of eminent domain in order to serve the public and to promote commerce, employment, and economic development in the state of Kansas; and

WHEREAS, Many small businesses which provide essential services to the public and to the agricultural, industrial, and commercial economy of this state, have been encouraged to locate their businesses and to construct improvements on railroad land pursuant to leases, licenses, and permits granted by the railroads for the mutual benefit of the railroads, such businesses, and the public; and

WHEREAS, Many such businesses are public grain warehouses which serve the public need and convenience and which are essential to the agricultural economy of this state; and

WHEREAS, The survival of such small businesses has become increasingly threatened by the imposition of oppressive lease terms and rentals imposed by railroads and their successors in interest, and uncertainties as to leasehold rights and title which arise upon the abandonment or sale of the railroad lands occupied by such small businesses; and

WHEREAS, The Legislature finds and declares that such conditions constitute an unreasonable burden upon economic stability, development, and prosperity in this state and that such conditions are adverse to the general welfare of the people of this state:

Now, therefore,

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. This act shall be known and may be cited as the "railroad leasing act."

SEC. 2. As used in this act:

- (a) "Commission" shall mean the Kansas Corporation Commission.
- (b) "Fair market value" shall mean the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion.
- (c) "Good faith" shall mean honesty in fact in the conduct of the transaction concerned.
- (d) "Improvement" shall mean any building or other structure permanently affixed to land.
- (e) "Lease" shall mean any lease, license, permit or other arrangement, under the terms of which a tenant occupies railroad land.
- (f) "Person" shall include an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or any other legal or commercial entity, and any successor or successors in interest thereto.
- (g) "Railroad" shall mean any railroad company as defined in K.S.A. 66-180, and its successor or successors in interest.
- (h) "Railroad land" shall mean any and all interests in any tract or parcel of real property which is or has been owned, held, or used by a railroad and which is or has been occupied by a person who has made or acquired any improvement or improvements thereon pursuant to a lease, license, or permit granted to such person by such railroad, together with all rail sidings and trackage, access rights, and the appurtenances

thereto, *provided "railroad land" shall not mean or include any property which is subject to the exclusive jurisdiction of the federal Surface Transportation Board or its successors.*

(i) "Successor in interest" shall include any agent, successor, assignee, trustee, receiver, or other person acquiring interests or rights by operation of law or otherwise including, but not limited to, the owner or holder of any servient estate or right of reversion relating to railroad land.

(j) "Tenant" shall mean any person occupying railroad land in good faith pursuant to any lease, license or permit granted to such person by a railroad.

SEC. 3. (a) No lease may provide that:

- (1) Any party agrees to waive or to forego rights or remedies under this act;
- (2) Any party agrees to confess judgement on a claim arising out of the lease;
- (3) Any party agrees to pay another party's attorneys fees;
- (4) Any party agrees to the exculpation or limitation of any liability of another party arising under law or to indemnify such other party for that liability or the costs connected therewith;
- (5) The term of the lease is less than one (1) year;
- (6) Rent is payable in advance for any period of more than one (1) year;
- (7) The lease may be terminated prior to the end of the term of the lease, other than for just cause, at the election or option of any party;
- (8) Improvements made or owned by the tenant become the property of any other person at any time prior to six (6) months after termination of the lease;
- (9) Any party agrees that such party must remove improvements from the railroad land upon termination of the lease;
- (10) A tenant shall have less than six (6) months after termination of the lease within which to remove the tenant's buildings or other improvements from the railroad land; or
- (11) Any party agrees to assume the defense or to pay the costs of defending any claim or other proceeding brought against another party, relating to the lease or the railroad land, including, but not limited to, attorneys fees and expenses, investigators fees and expenses, litigation expenses, settlement payments, and amounts paid in satisfaction of judgements.

(b) A provision prohibited by subsection (a) of this section included in a lease is unenforceable. If any party deliberately uses a lease provision known by such party to be prohibited by subsection (a), the other party or parties may recover actual damages and reasonable attorney fees and expenses.

SEC. 4. (a) When any person seeks to lease railroad land it shall extend a written offer to lease to the tenant, allowing the tenant sixty (60) days to respond. If such person and tenant are unable to agree upon any term or provision of such offer to lease, either or both parties may make written application to the commission to resolve the disagreement. The application shall be made within sixty (60) days after the tenant's receipt of the railroad's offer. The commission shall hear the controversy and make a final determination of a fair lease rental and all other terms of the transaction which were in dispute, within ninety (90) days after the application is filed. The determination is a final agency action. All correspondence shall be by certified mail.

The commission's determination shall be just and equitable. In any determination of the fair lease rental for the property, each party shall select one appraiser and each appraisal shall be paid for by the party for whom the appraisal is prepared. The two appraisers shall select a third appraiser and the costs of this appraisal shall be divided equally between the parties. If the appraisers selected by the parties cannot agree on selection of a third appraiser, the commission shall appoint a third appraiser and the costs of this appraisal shall be divided equally between the parties.

The commission's determination and order is final for the purpose of review by the district court pursuant to the Kansas Act for Judicial Review and Enforcement of Agency Actions. The district court's scope

of review shall be confined to whether there is substantial evidence to support the commission's determination and order.

(b) The offer made herein shall be in person or by certified mail to the last known address of the offeree.

(c) The value of a tenant's improvements shall not be considered in determining the fair lease rental.

SEC. 5. (a) When a railroad seeks to sell its interest in railroad land under any other circumstance other than for continued use of railroad land for railroad purposes, the railroad shall extend a written offer to sell such interest at a fair market value price to the tenant, allowing sixty (60) days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the commission to resolve the disagreement. The application shall be made within sixty (60) days from the time an initial written response is served upon the railroad by the person wishing to purchase the property. The commission shall hear the controversy and make a final determination of the fair market value of the railroad's interest in the railroad land and the other terms of the transaction which were in dispute, within ninety (90) days after the application is filed. The commission's determination is a final agency order. All correspondence shall be by certified mail.

The decision of the commission shall be binding on the parties, except that a person who seeks to purchase the real property may withdraw the offer to purchase within thirty (30) days after receipt of the decision of the commission. If a withdrawal is made, the railroad may sell the railroad's interest in the railroad land without further order of the commission.

(b) To assist the commission in its determination of the fair market value under subsection (a) of this section, the commission may order that the fair market value of the railroad's interest in the railroad land be appraised by three (3) disinterested appraisers. The railroad and tenant shall each designate an appraiser and those two shall designate a third appraiser. The railroad and tenant shall each pay one-half of the reasonable costs and expenses of such appraisal.

(c) The fair market value of the railroad's interest in the railroad land shall include only the value of the railroad's interest therein and shall not include the value of any interest or improvement which is not owned by the railroad.

SEC. 6. Any action to enforce any provision of this act or to determine any controversy arising out of a lease shall be deemed an action concerning real property and must be brought in the county in which the railroad land is situated, except if it be an entire tract situated in two or more counties, the action may be brought in any county in which a part thereof is situated. Any person having an interest in railroad land may obtain declaratory relief with regard to any questions concerning any person's interest in the railroad land, questions concerning the construction or validity of the lease or any provision thereof, or any other questions arising out of the lease or related to the railroad land.

SEC.7. (a) If a court, as a matter of law, finds:

(1) a lease or any provision thereof was unconscionable when made, the court may refuse to enforce the lease, enforce the remainder of the lease without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(2) A settlement in which a party waives or agrees to forego a claim or right under this act or under a lease was unconscionable at the time it was made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid any unconscionable result.

(b) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting purpose, and effect of the lease, provision, or settlement to aid the court in making the determination.

SEC. 8. (a) Where any tenant, while peacefully occupying railroad land under a lease granted by a railroad, has in good faith made improvements thereon or paid obligations in connection therewith, such tenant shall not be dispossessed by a party establishing a superior right, claim, or title to such railroad land, until such tenant is fully compensated therefore.

(b) If in any action the judge concludes that a tenant described in subsection (a) of this section should be dispossessed, the judge shall before entering final judgement determine the compensation due such tenant under the provisions of subsection (a) of this section, or if requested by either party, he or she shall submit the question to a jury for determination.

SEC. 9. Any tenant which is a public warehouse or public grain warehouse as defined in K.S.A. 34-223(m), whose lease or occupancy of railroad land is terminated or subject to termination by reason of abandonment by the railroad of the railroad land for railroad purposes, or by the proposed sale or other disposition of the railroad land by the railroad or its successor in interest, shall have the right to acquire by condemnation any interest in the railroad land, including a fee simple title thereto, in accordance with the Kansas Eminent Domain Procedure Act. In any such proceeding, the compensation for the taking of such interest in the railroad land shall not include any valuation or compensation for any improvements situated on the railroad land which are not owned by the railroad or its successor in interest prior to the termination of such lease.

SEC. 10. The provisions of this act shall not apply to or affect any valid lease entered into prior to the effective date of this act, but the provisions of this act shall apply to and govern any renewal, extension, or modification of any such lease where such renewal, extension or modification is effected on or after the effective date of this act.

SEC. 11. The provisions of this act are hereby declared to be severable. If any provision of this act shall be found by the decision of a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of any other provision of this act.

SEC. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

HOUSE BILL NO. _____

By

AN ACT regulating traffic; concerning bicycles single-file; exceptions; amending K.S.A. 1997 Supp. 8-1590 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1997 Supp. 8-1590 is hereby amended to read as follows: 8-1590. (a) Every person operating a bicycle or a moped upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable, except under any of the following situations when: (1) Overtaking and passing another bicycle or vehicle proceeding in the same direction; (2) preparing for a left turn at an intersection or into a private road or driveway; or (3) reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving bicycles, bicycles, pedestrians, animals, surface hazards or narrow width lanes that make it unsafe to continue along the right-hand edge of the roadway.

(b) Any person operating a bicycle or a moped upon a one-way highway with two or more marked traffic lanes may ride as near to the left side of the roadway as practicable.

(c) Persons riding bicycles upon a roadway shall ~~not ride more than two abreast~~ ride single-file, except on paths or parts of roadways set aside for the exclusive use of bicycles. A city may authorize persons riding bicycles upon a roadway within the corporate limits of such city to ride not more than two abreast.

(d) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(e) For purposes of this section, "narrow width lane" means

House Transportation
1-21-98
Attachment 4

a lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane.

Sec. 2. K.S.A. 1997 Supp. 8-1590 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL NO. _____

By

AN ACT concerning vehicles; relating to terminal rent adjustment clauses.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Notwithstanding any other provision of law, an agreement involving the leasing of a motor vehicle or trailer does not create a sale or security interest solely because the agreement provides for an increase or decrease adjustment in the rental price of the motor vehicle or trailer based upon the amount realized upon sale or other disposition of the motor vehicle or trailer following the termination of the lease.

(b) This section shall be part of and supplemental to the uniform commercial code-leases.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

House Transportation
1-21-98
Attachment 5

6

HOUSE BILL NO. _____

By

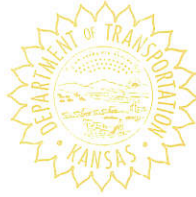
AN ACT requiring the installation of rumble strips at certain intersections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. On and after the effective date of this act, the secretary of transportation with respect to highways under the secretary's jurisdiction and the board of county commissioners of each county with respect to paved highways under their jurisdiction shall install rumble strips at intersections, as defined in K.S.A. 8-1428, and amendments thereto, where at least two ^{separate} fatality vehicle accidents have occurred within a calendar year. Such rumble strips shall be placed to provide sufficient warning of the approaching intersection.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

House Transportation
1-21-98
Attachment 6



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

**Presentation to the House Transportation Committee
Regarding Federal Transportation Legislation**

January 21, 1998

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the federal surface transportation legislation that provided funding to states for six years, expired September 30, 1997. During the 1997 congressional session, neither the House nor the Senate was able to pass a new bill for long-term reauthorization of ISTEA.

Initially, the House Transportation and Infrastructure Committee developed a three-year bill. However, this bill exceeded the balanced budget limitations and the House leadership would not bring it to the floor. The Senate developed a six-year bill that stayed within the budget limitations, but there were concerns that the funding levels were not high enough.

Aware that if no action were taken lengthy lapses in funding would result, both houses were able to pass short-term legislation called STEA (Surface Transportation Extension Act of 1997) which extends funding for six months. Under STEA, Kansas receives \$64 million in new apportionments and \$128 million in obligation authority. This obligation authority cannot be used after the six-month extension expires on May 1, 1998 unless new multiyear reauthorization legislation is passed prior to that date.

I need to make it clear that the funding we receive from this short-term extension legislation, and even from the multiyear reauthorization when it passes, is not new or unanticipated money. KDOT and locals have already programmed projects assuming these funds would be received. In the case of the short-term extension, the funding is not even as much as KDOT had estimated it would receive last spring when projects were programmed. However, to keep its promised letting schedule, in the short-term future KDOT plans to use state funds from its balances until funds from a new multiyear federal reauthorization act become available.

When Congress begins efforts again this year to pass a multiyear reauthorization of transportation funding legislation, the first issue to be resolved will probably be the overall level of funding. Overall, revenue estimates are up from last year and transportation advocates will certainly try to direct a portion of any increased spending

House Transportation
1-21-98
Attachment 7

authority to transportation programs. The Senate is expected to take up their bill first. The House will probably apply pressure by waiting for new transportation-related budget numbers before bringing their bill out of committee.

There is a major disagreement over the formulas used to distribute funds to states. Donor states (states that contribute more in user taxes to the Highway Trust Fund than they get back in Federal aid) want a greater share of funds they send to Washington. Donee states (states that get back more than they pay in) do not want to give up the relative share of funds they have had for many years. Kansas is a "break-even" state. We get just about the same amount of Federal aid for surface transportation that we pay in user taxes. This major issue could force the reauthorization debate to continue into the summer or even longer. It is directly related to the level of funding because it will be much easier to appease both donor and donee states with more funding with which to work.

The Senate bill (S. 1173) combines several of the programs from ISTEA. For example, there would no longer be separate categories for interstate maintenance or bridges. Instead, equivalent-funding amounts would be included in the National Highway System (NHS) and Surface Transportation Programs (STP). This provides additional flexibility for states but it has some groups concerned that funds are not earmarked for certain programs.

The Senate bill was not debated extensively last year, and there will be many amendments when debate begins again this year. Senators have indicated they plan to submit amendments dealing with such issues as repealing the Davis-Bacon wage requirements on transportation projects, ending grandfather provisions that allow triple-trailers on the nation's highways, and eliminating programs for disadvantaged businesses.

The House bill (H.R. 2400) keeps most of the programs intact from ISTEA. It establishes a new High-Risk Road Safety Program for projects whose primary purpose is to improve safety on high-risk roads. It also has considerable funding going to discretionary programs such as the Appalachian Highway Program and the High-Cost Interstate System Reconstruction and Improvement Program. The Senate bill appears preferable because the distribution formulas are more favorable to Kansas. Under ISTEA, Kansas received 1.15% of all funds. The House bill would allow Kansas to receive 1.20% of all funds and the Senate bill would allow Kansas 1.30% of all funds.

In closing, we do not expect an early resolution of the reauthorization of ISTEA. Historically, Congress has gone well into the spring of the year following the expiration of transportation funding before reauthorizing another act. However, the intensity of the donor/donee debate and the provision of short-term funding by the STEA this time may further delay an agreement.